MEAT, POULTRY, AND EGG PRODUCTS INSPECTION AMENDMENTS OF 1982

HEARING

BEFORE THE

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

OF THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

S. 2348

A BILL TO AMEND THE FEDERAL MEAT INSPECTION ACT, THE POULTRY PRODUCTS INSPECTION ACT, AND THE EGG PRODUCTS INSPECTION ACT TO AUTHORIZE THE SECRETARY OF AGRICULTURE TO DETERMINE THE DEGREE OF INSPECTION TO BE CONDUCTED IN MEAT, POULTRY, AND EGG PRODUCTS PROCESSING PLANTS, AND FOR OTHER PURPOSES

AUGUST 11, 1982

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MEAT, POULTRY, AND EGG PRODUCTS INSPECTION AMENDMENTS OF 1982

WEDNESDAY, AUGUST 11, 1982

U.S. SENATE,
SUBCOMMITTEE ON AGRICULTURAL RESEARCH
AND GENERAL LEGISLATION OF THE
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:25 a.m., in room 324, Russell Senate Office Building, Hon. S. I. Hayakawa, presiding.

Present: Senator Hayakawa.

Also present: Senators Jepsen, Melcher, and Pryor.

STATEMENT OF HON. S. I. HAYAKAWA, A U.S. SENATOR FROM CALIFORNIA

Senator HAYAKAWA. Today's hearing is designed to focus on S. 2348, legislation to provide the Secretary of Agriculture with great discretion in determining the intensity of inspection in meat, poultry, and egg processing plants.

Just a year ago, the U.S. Department of Agriculture celebrated the 75th anniversary of the Federal Meat Inspection Act—which, those of you who are acquainted with literary history will recall, was inspired by Upton Sinclair's, "The Jungle."

During those 75 years since the original legislation passed in 1906, American consumers have enjoyed unparalleled abundance and variety of wholesome meat, poultry, and egg products. Great credit must go to America's farmers and ranchers, and much credit should also go to America's entrepreneurs, who provide us with meat and poultry with such convenience and efficiency. And certainly, much credit should go to the inspectors and those who help to assure that these products are, in fact, clean, unadulterated, and properly labeled to the consumer.

It was not always so. Upton Sinclair's novel, "The Jungle," described horrible conditions in meatpacking houses around the turn of the century. Public outcry was so strong that it led to the enactment of the original Meat Inspection Act in 1906, which has since been strengthened and broadened.

Incidentally, it is ironical that "The Jungle" was supposed to create sympathy for the working man in the meatpacking plants, and instead of that, it hit the Nation in the stomach; they did not care so much what happened to the working man—what they cared about was what they were eating. And so, it resulted not in a

strong movement in favor of the labor movement; it resulted in strong, strong consumer protection legislation.

By the late 1970's, however, some in the meat and poultry industries were stating that they found themselves in a different sort of jungle. It was the jungle of costly, duplicative, and even contradictory Federal legislation from a variety of agencies, and people demanded change. Today, we are seeking a balance. That is, there is overregulation, and there is contradictory regulation. We need to balance some of these regulations so that they come out equitably. We need a food inspection system that is both effective and efficient with the safety of our food supply as the paramount concern.

The Department of Agriculture and a number of Senators have proposed S. 2348 as one means of enhancing the efficiency of such inspection. Today, at 10 a.m. and 2 p.m., we will hear from a diverse group of witnesses as to the costs and benefits of such a proposal.

Senator Andrews will chair this afternoon's session beginning at 2 o'clock this afternoon in this room.

I am happy to welcome our distinguished group of witnesses and the interested public to our hearing.

Thank you, and welcome, gentlemen.

Senator Jepsen, do you have a preliminary statement?

STATEMENT OF HON. ROGER W. JEPSEN, A U.S. SENATOR FROM IOWA

Senator JEPSEN. Yes; Mr. Chairman, thank you. Because of prior commitments, specifically, a conference committee on the defense appropriations, I have to leave this hearing early this morning. But I appreciate the opportunity at this time to introduce an Iowan who will be testifying later this morning. He is Robert Nissen, of Webster City, chairman of the board of one of the Nation's two major meat trade associations and the National Meat Association. Bob is president and chairman of the board of the Nissen Co. It is a highly respected processing company which manufactures luncheon meats and turkey products, as well as fabricates beef. Its products are well-known in Iowa and its neighboring States.

Bob attended grade school and high school in Webster City and studied at Iowa State University. A noted community leader, he is past president of the Rotary Club, past president of the school board, past chairman of the board of trustees, United Methodist Church, director of the First State Bank, and past president of the Iowa Meat Packers' Association.

With more than 40 federally inspected plants, Iowa is one of the largest meatpacking States in the Nation.

In his testimony, Bob will voice some of the National Meat Association's major concerns with the bill under consideration today, the Meat, Poultry, and Egg Products Inspection Act of 1982, and I urge that these concerns be weighed very strongly by the subcommittee members.

I thank you, Mr. Chairman, for permitting me the honor of introducing Bob Nissen from my home State.

Senator HAYAKAWA. Thank you, Senator Jepsen.

We shall hear first from C. W. McMillan, Assistant Secretary for Marketing and Inspection Services, U.S. Department of Agriculture.

Mr. McMillan?

STATEMENT OF C. W. McMILLAN, ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY DR. DONALD HOUSTON, ADMINISTRATOR, FOOD SAFETY AND INSPECTION SERVICE, AND CONNOR KENNETT, DIRECTOR, POULTRY DIVISION, AGRICULTURAL MARKETING SERVICE

Mr. McMILLAN. Thank you, Mr. Chairman.

Accompanying me this morning is Dr. Donald Houston, the Administrator of the Food Safety and Inspection Service, and Connor Kennett, who is the Director of the Poultry Division for the Agricultural Marketing Service. When we get to the point of questions, perhaps we can utilize their expertise on any precise questions that I am not able to handle myself.

I am very pleased to be here today to discuss S. 2348, which is a proposal to give the Secretary of Agriculture expanded discretion to determine the intensity of inspection provided to individual meat, poultry, and egg processing plants.

In the interest of time, I would like to summarize my statement and ask, if I might, that the full text be made a part of the record.[1]

Senator HAYAKAWA. It will be made a part of the record.

Mr. McMILLAN. Thank you, sir.

The proposed changes in the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act would give the Secretary of Agriculture authority to adjust the staffing of inspection personnel in processing plants based on the compliance history of that company, the nature and the frequency of the company's operations, the adequacy and reliability of the company's product monitoring system, and other factors the Secretary deems appropriate.

Under the law as it is now written, Federal inspection is normally provided on a daily basis in all processing establishments, regardless of these considerations. We in the Department believe that consumer protection would not be jeopardized by a change in staffing at certain processing operations and that we would be able to make better use of inspection resources.

Because of the differences in the inspection systems, I would like to address the proposal to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act separately from that to amend the Egg Products Inspection Act. I will begin with the Federal Meat Inspection Act and the Poultry Products Inspection Act.

As you know, the Meat Inspection Act of 1906 charged the Department of Agriculture with responsibility for the inspection of meat and meat products prepared for human consumption and intended for distribution in interstate and foreign commerce. The legislation was passed in response to the conditions uncovered in slaughterhouses and meatpacking plants at the beginning of this

[1] See p. 66 for the prepared statement of Assistant Secretary McMillan.

century. The Poultry Products Inspection Act, which became law in 1957 requires, with certain exceptions, Federal inspection of all poultry and poultry products produced for human consumption for distribution in interstate and foreign commerce. No substantial changes occurred in the meat inspection law until the passage of the 1967 Wholesome Meat Act, which updated and greatly strengthened the Meat Inspection Act, consolidating it into the FMIA. Similar legislation was passed for poultry in 1968.

Today, the Department's Food Safety and Inspection Service performs three basic types of meat and poultry inspection—antemortem, and postmortem slaughter inspection, and processing inspection. I emphasize that the proposal to give the Secretary discretion in determining the frequency and extent of inspection would apply only to the inspection of processed meat and poultry products. It would not affect slaughter inspection. Inspectors still would be required to be present during all slaughtering operations and to inspect every livestock or poultry carcass.

At the time of the passage of the 1906 act, processing beyond slaughter tended to consist of relatively simple operations, such as cutting and boning of whole carcasses, the production of a few types of sausages, and the curing and smoking of ham, bacon, and other meats. The inspection of processing operations tended to be viewed at the time as merely an extension of slaughter inspection, in which the product to be inspected moved past the inspector on a production line. So strong was this orientation toward slaughter inspection that the language of the Meat Inspection Act that required inspectors to "mark, stamp, and tag, or label as 'inspected and passed' all such products" applied to both slaughter and processing inspection. A narrow interpretation of this language could mean that a USDA inspector must personally and literally inspect every frankfurter or piece of luncheon meat produced before it could be considered "inspected and passed." The Department has never interpreted the language so narrowly in the administration of the act.

Given the abuses in the meatpacking industry at the time of the 1906 legislation, however, the Department decided that the act necessitated, in general, the daily, continuous presence of Government inspectors in both processing and slaughter establishments. Its position on this intensive level of inspection is supported in the legislative history of the Meat Inspection Act and the Federal Meat Inspection Act, as well as by subsequent opinions of the Department's Office of the General Counsel over a number of past administrations.

Although, in the early part of the century, most inspection was conducted at slaughtering rather than processing establishments, over the years, and particularly since World War II, the meat and poultry industries began using an increasing part of their total meat and poultry supply in the production of complex processed products. Recent years have witnessed a growing demand for processed convenience foods. Moreover, during the 1960's and 1970's, consumers became increasingly interested in a diversity of processed foods and came to expect products that are both attractive and uniform. When consumers go to the grocery store, they expect that a certain brand of hotdogs or frozen dinners will have a cer-

tain taste, aroma, and appearance, and that they expect the quality to be consistent package after package. Further, the fast-food industry was built on the concept of product uniformity.

With increasing consumer interest in uniformity and consistency in processed products, some firms realized that to fulfill consumer expectations, they would need more sophisticated procedures for controlling production. By the 1960's, some meat and poultry processors were designing systems—called "process quality control"—specifically for controlling the production process and for producing products at predictable cost and in conformity with USDA regulatory requirements.

Quality control systems establish well-defined criteria and procedures for the manufacturing process, for evaluating the products at various stages of production, for evaluating finished products, and for recording the data and information generated in a manner that details the entire production process. Quality control is now common to all industries, whether companies manufacture television sets or hotdogs. Under quality control, certain key points in production are monitored. Any variations at those points beyond established ranges, if not corrected, may result in a finished product that does not conform to predetermined requirements.

As the meat and poultry processing industries expanded to meet consumer demand, the Department's inspection responsibilities also grew substantially. During the last decade, the number of federally inspected meat and poultry processing plants increased 60 percent, from about 4,300 in 1971 to about 6,800 in 1981. The total cost of processing inspection almost tripled, increasing from $28 million in 1971 to $76 million in 1981.

A trend toward small, specialized processing plants has accompanied growth in numbers. About 70 percent, or 4,900, of meat and poultry processing establishments under Federal inspection are small, meaning that they produce less than 3 million pounds of product a year. The large number of such plants under inspection strains the use of resources because of the necessity of providing daily inspection to plants whose production or product complexity may not justify the assignment of a full-time inspector. To cope with the problem, USDA has established patrol inspection.

Under the patrol system, inspectors do not spend a full day in an establishment, but are responsible for several plants within a geographical area and visit each plant at least once a day. Today, about 58 percent of processing inspectors are on patrol assignment, inspecting an average of five plants each. In all, about 90 percent of processing plants are inspected on a patrol basis. Because USDA has been aware of the changing character of the industry and the need for adapting inspection to industry trends, it has taken steps in other areas to modernize meat and poultry inspection and hold down costs. However, we can only go so far in these areas, particularly in slaughter inspection, to reduce costs without sacrificing effectiveness. Thus, the Department has looked to changes in processing inspection as a safe and appropriate way to increase efficiency.

Perhaps the most far-reaching response of USDA to the changing trends in meat and poultry processing has been the development and implementation, in August 1980, of the voluntary total quality

control program, called TQC. This approach to processing inspection was recommended in 1977 by the consulting firm of Booz-Allen & Hamilton and in 1977 and 1981 by the General Accounting Office.

In traditional inspection, USDA inspectors work largely through direct observation and collection of samples of finished product to determine compliance with the regulations. The emphasis is essentially on detection of noncompliance with USDA regulations. Little emphasis is on prevention. The Department adopted the TQC program because it recognized the value of an approach to inspection that emphasizes preventing noncompliance. Under the TQC program, plant management develops a plan that establishes organized controls at each critical phase of product handling and processing and that provides for the generation of data at the control points. The Department evaluates the plan to assure that all the system will consistently produce products in compliance with regulatory requirements. Once a plan is approved, USDA inspectors trained in TQC inspection monitor the data generated by the system. Inspectors also conduct their own independent observation and draw samples for verification testing in USDA laboratories.

Although the TQC program is still relatively new—as of the end of June, 70 plants had been approved for participation—we believe that the program is proving itself. Our experience with TQC has shown us that it is not always necessary for Government to stand over industry's shoulder, pointing out every deficiency and, in effect, acting as industry's quality control system. Industry, for its part, has proved that it can and will assume its share of responsibility for producing products that are safe, wholesome, and in compliance with regulatory requirements. By taking advantage of the technology developed by industry, Government in turn is able to improve the efficiency of inspection without any loss in effectiveness. However, under present law, the Department continues to provide daily inspection in plants under the TQC program. Before we can gain the full benefit of product monitoring systems, we need additional flexibility in the allocation of meat and poultry inspection resources. We believe that the legislative proposal before you today would give us that flexibility.

If the proposed legislation were enacted, inspectors would continue to sample products for laboratory testing, check to see that facilities meet sanitation requirements, and monitor processing procedures. The difference is that the legislation would give the Department the authority to determine the nature and frequency of inspection at each processing establishment. The Department would no longer be locked into providing continuous inspection to processing plants, as it is today. In those cases in which plant management has demonstrated that it is both willing and able to assume a greater share of responsibility for product compliance, we believe it is not necessary for the Department to inspect on a daily basis. The legislation would enable the Department to develop a more efficient system of inspection than is now possible and to tailor that system to actual inspection needs.

We are aware that concern has been expressed that small plants would suffer under the less-than-continuous inspection proposal because they would not have the resources to implement the neces-

sary quality control systems and thereby gain the benefits of a reduced regulatory burden. We believe small plants would be able to participate in the program. From our experience with the Department's TQC program, we have found that plants of every size and complexity can adopt quality control systems without undue expense or burdensome technical requirements.

It should be emphasized that the proposed legislation places no new requirements on the regulated industry. It does not impose mandatory quality control systems, as some industry representatives have charged. Rather, the legislation is limited to giving the Secretary increased flexibility in using inspection resources, based on sound criteria. While it is true that the bill would permit the regulatory burden to be eased in plants operating good quality control systems, the decision to implement such systems remains totally with the industry.

The availability of a quality control system constitutes only one of the factors that would be used to determine eligibility for less-than-continuous inspection. As required under the bill, the nature and frequency of an establishment's processing operations and the establishment's compliance history also would be important considerations in determining the frequency of inspection. Great weight also would be given to management's attitude toward and ability to deal with sanitation and other product safety requirements. Specific requirements surrounding these criteria would be spelled out during the rulemaking should this legislation be enacted.

The legislation would also change the wording of the mark of inspection from "Inspected and passed" to "Prepared in a USDA-inspected establishment." The legend now in use certifies that a product has been produced in conformance with all applicable meat and poultry inspection laws and regulations. The adoption by industry of quality control systems and the sheer volume of processed products produced in recent years has shifted the focus of meat and poultry inspection away from the product itself to the process by which the product was produced. Thus, even under the current provisions of law regarding continuous inspection, the proposed change in the legend might be more appropriate than "Inspected and passed." However, we recognize that changing the inspection legend after many years of use by the Department may result in unnecessary confusion to the public. If the Congress would choose to make no changes relative to this provision, that would be acceptable to the USDA. The USDA would welcome any suggestions for improvement that you might have in this area, as in all other areas of the legislation.

Although the conversion to a less-than-continuous system of inspection may produce some costs to industry, the benefits would far outweigh these costs. For example, in fiscal year 1981, processors paid more than $12 million for inspector overtime. Analysis of data from 35 plants in the TQC program has shown that overtime charges have been reduced by 67 percent. We would expect industry savings in overtime charges would be even greater under the less-than-continuous inspection.

Probably more important than savings in overtime charges are the savings that would accrue to industry from the voluntary introduction of quality control systems. For example, after joining the

TQC inspection program, one company estimated that it had saved $2,500 a month under the TQC program because it had tightened net weight controls and reduced excess weight in its finished containers.

On the question of benefits to Government, the Department has estimated that implementation of the less-than-continuous inspection proposal would save $2 million in fiscal year 1983. That savings is reflected in the administration's budget request of $319.9 million for FSIS. In all, enactment of the legislative proposal, we estimate, would save $104.7 million over the next 7 years.

Some parties—including GAO, Booz-Allen & Hamilton—have suggested that civil penalties be adopted under a less-than-continuous inspection program. Although we agree with their suggestions in many areas, we do not believe that civil penalties would be necessary under the program. The less-than-continuous inspection proposal was designed to enable us to allocate inspection resources more efficiently and effectively than is now possible. If we believed that the proposal would create gaps in the inspection program and greater opportunities for chicanery, we would support the concept of civil penalties. Our experience has shown, however, that the effectiveness of inspection depends less on the number of hours an inspector spends in an establishment than on the commitment and ability of the firm to produce safe, wholesome, and properly labeled products. Under the proposal, inspectors would be spending more time where inspection violations are likely to occur and less time in establishments with a demonstrated ability and willingness to comply fully with regulatory requirements. In addition, the proposed legislation gives the Secretary the option of increasing inspection coverage of any establishment in the less-than-continuous inspection program whenever necessary.

Further, the Federal Meat Inspection Act and the Poultry Products Inspection Act and their implementing regulations give the Department various sanctions that it may apply to prevent adulterated and misbranded meat and poultry products from being distributed in commerce. We believe those sanctions are both strong and flexible enough to enable the Department to deal effectively with the spectrum of offenses that may occur. Over the years, the Department has applied these tools vigorously and consistently, and it will continue to do so under a system of less-than-continuous inspection.

Mr. Chairman, I now wish to address the proposal to amend the Egg Products Inspection Act. This act consists of two major portions—one dealing with the continuous inspection of processing operations of plants manufacturing liquid, frozen, and dried egg products and the other involving periodic inspections of egg handlers to determine the disposition of certain types of undergrade eggs. I would first like to discuss continuous inspection of processing operations.

During the 11 years that this part of the act has been in effect, the Department has gained valuable experience in administering the program. We now believe that certain types of processing operations need not be covered on a continuous basis to maintain an effective inspection program. The present act requires continuous inspection of the processing of liquid, frozen, and dried egg prod-

ucts. Processing is defined as "breaking eggs, filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging" egg products. We are now furnishing inspection on all shifts, 146 in the 115 egg products plants when any of these processing operations take place.

Our experience has shown that the key to a successful egg products inspection program is controlling the quality of the eggs to be broken. In other words, we have to make sure that unfit shell eggs, such as dirties, leakers, losses, inedibles, and incubator rejects, are not broken and used in the manufacture of egg products. To do this, we must maintain continuous inspection of the breaking operation. The proposed legislation clearly sets forth that this requirement will be retained in the law. On the other hand, we believe that the other nine processing operations can be covered on a spot check basis without adversely affecting the inspection program.

Under the proposed amendments, all plants would continue to be covered daily, but inspection coverage of the 34 shifts where no breaking takes place would be substantially reduced. By doing so, we can reduce costs about $525,000 a year. The compliance history of each plant will be of primary importance in determining the amount of the plant's inspection coverage.

Now I would like to turn to the shell egg portion of the act, an area where about $975,000 per year could be saved if the proposed amendments were adopted. Under the act and regulations, every shell egg grading plant that packs eggs for the ultimate consumer as well as every hatchery is required to be inspected quarterly. Other egg handlers are inspected less frequently.

During the 10 years the shell egg portion of the Egg Products Inspection Act has been in effect, the Department has accumulated compliance histories of egg handlers subject to the act. Under the present statutes, handlers with good records of compliance, as well as those with poor compliance histories, have to be inspected at least once each quarter. We believe such a requirement is unnecessary in most instances. The proposed amendments would authorize annual rather than quarterly visits, but would allow more frequent inspection if deemed necessary. This change would reduce our costs while maintaining adequate enforcement.

To conclude my testimony and to summarize the Department's position on the proposed legislation, we believe the proposal would improve the efficiency of the inspection of processed meat and poultry products without reducing its effectiveness. A less-than-continuous system of inspection would allow the Department to take full advantage of the product monitoring systems developed by industry and to base inspection on the known ability and willingness of each firm to comply with the meat and poultry inspection regulations. In many processing plants, daily processing is not only unnecessary, but is also a misuse of inspection resources. We firmly believe that inspection could be accomplished just as effectively as it is today on a less-than-continuous basis.

In the case of egg processing operations, we believe that inspection coverage of the shifts that do not break eggs can safely be reduced. We also think that annual inspection of shell egg handlers with good compliance histories is sufficient to insure a safe and wholesome egg supply.

Thus, the legislative proposal before you today provides a rational and realistic basis for the inspection of processed meat, poultry, and egg products and of shell egg handlers, and we urge the Congress to adopt the proposal.

This concludes my statement, Mr. Chairman, and I and my colleagues will be very happy to try and answer any questions you may have.

Thank you.

Senator HAYAKAWA. Thank you very much, Mr. McMillan, for your thoughtful and thorough coverage of the problem. Since you started out, Senator Pryor has arrived, and I am wondering if he has any preliminary remarks to make.

Senator PRYOR. Mr. Chairman, thank you. I do have a statement I would like inserted in the record, and I am one of the cosponsors of the legislation. I would appreciate having my statement printed in the record.

Senator HAYAKAWA. Without objection, it will be included in the record.[1]

Senator Melcher?

Senator MELCHER. Thank you, Mr. Chairman.

I believe the proposal does not go to the point of improving inspection to make sure that both imported and domestic meats are more wholesome. Instead it goes to the point of alleviating some minor costs which are an infinitesimal amount per pound. Such cost saving actions are rather questionable. They could relax what inspection is done, without benefit to consumers, and certainly, risk that new products will be less wholesome. I do not have to remind the committee that it was only by chance of inspection that the inspectors found out we were being palmed off horsemeat for beef. It was only by chance of inspection that kangaroo meat was discovered to be labeled "beef." I think it is a question of whether consumers and producers of domestic meat are being considered here. I see no point in less inspection. I see, rather, a point in shoring up what inspection there is.

Senator HAYAKAWA. Mr. McMillan has not addressed himself at all to substitute imports—have you—in this paper?

Mr. MCMILLAN. No. The legislation that is pending before the committee only addresses the question of processed meat and poultry products and egg products. It does not address the question of imported products.

In response to Senator Melcher's comment that the discovery of horse and kangaroo meat was only by chance, I disagree with that. The fact is that it was discovered in routine inspection, and I think it is important for that to be emphasized, because it proves that the system is working.

Senator MELCHER. The fact is, Bill, you know as well as I do that the Department relaxed their own regulations that had been in effect in the early seventies and were not checking on species of imported meats. And the fact is that because of that embarrassing episode, the Department now does check for species. And of course, the bill is designed to relax inspection on processed meats, and that

[1] See p. 65 for the prepared statement of Senator Pryor.

is where all the imported chunks of beef—purportedly, beef, and for that matter, mutton—goes into the food supply of the country.

Mr. McMILLAN. Well, yes, the Senator is correct that most of the imported meat does go into processed meat, either into fresh ground beef or into hotdogs or other processed meats. But before any of that product goes in, it has to be federally inspected, and that includes the imported product.

Senator MELCHER. At random?

Mr. McMILLAN. It is a random sample, but——

Senator MELCHER. About one-tenth of 1 percent on a big shipment?

Mr. McMILLAN. But statistically, it has been shown that it is very accurate on a random sample basis. As a practical matter, to inspect every single box just would not be economically feasible; I am sure the Senator would agree with that.

But the sample——

Senator MELCHER. The defense of that has been that we have had inspections before it is processed. Therefore, we have two lines of defense—one, at the docks, where it is quickly and hastily moved out, so it does not thaw out, and then put in the processing plant. That has been the Department's defense of that lackadaisical, haphazard, scanty inspection at the docks because we have the backup defense at a processing plant when it will be looked at piece by piece.

Mr. McMILLAN. Well, there is little to be gained, I think, in debating the issue, Senator Melcher, because I think you will recall that in the conference last year on the farm bill, we were in support of your suggested changes in the manner in which the foreign meat is handled when it comes in. It solidified the Department's position. We are certainly satisfied at this point that there are adequate safeguards. The system is in place. We are testing for species determination. You are right that the species testing had been terminated in about 1970. It has been reinstated—even on domestic product, it is reinstated. We think that the situation is under pretty good control.

Senator MELCHER. Well, you want to relax it again.

Mr. McMILLAN. No; we are not advocating relaxing it. We are advocating in this legislation an opportunity to better utilize the resources of the Department of Agriculture and the taxpayers, for that matter, and to utilize also the new technologies that are in place in many and most of our processing plants, which do provide and will continue to provide a wholesome product for the consumers of the United States. That is our goal, and it is the goal of the Senate committee and, I am sure, the goal of the processors as well.

Senator MELCHER. I think it is presumptuous to say it is the goal of the Senate committee or any part of the legislative body here in Congress to relax the thorough inspection on the basis of saving some fraction of a mil per pound of meat consumed in the United States.

Senator HAYAKAWA. If I may make a comment, Senator Melcher—and I address this to you, too, Mr. McMillan, whether you inspect each and every hotdog, or 1 in 1,000, or 1 in 10,000, or 1 in 1 million, and can rely on the results, is not really a problem for

a Department of Agriculture to figure out; it is a problem for a mathematician, isn't it?

Senator MELCHER. Are you asking me?

Senator HAYAKAWA. Yes. That is, there is an optimum. You can do too much inspection and waste a lot of manpower, as you would, obviously, if you had to inspect every single hotdog, every single slab of meat, or you would have not enough, in which you would let a lot of unfit pieces of meat get by you, and inbetween those, there would be that which minimizes the possibility of fraud or contamination and maximizes the possibility of safety. But is this not a mathematical problem rather than a managerial problem, simply to be solved by legislation?

Senator MELCHER. I do not think it is a question of mathematics. I think it is a question of what helps the consumers and the processors and the business people of this country. I think if you had asked the same question of the people who were—I do not know, maybe they still have somehow recouped; I have not checked it out—but if you had asked the people at Jack-in-the-Box, who got the horsemeat, whether they felt comfortable that the inspection was adequate, I am sure they would have said they wished it had been more thorough, so they would not have gotten the horsemeat and gotten the adverse publicity that not only dampened, but really devastated their business. I think if you had asked any individual proprietor of a Jack-in-the-Box franchise sandwich shop whether he thought he had been adequately protected, and if he did not have any customers coming in the door anymore, or at least, not sufficient to keep him in business, I think he would answer that he had not been protected.

Senator HAYAKAWA. I am not arguing with that, John.

Senator MELCHER. So I think mathematics is a point of view, whether you have been hurt or not. Now, granted, consumers can eat horsemeat and not be adversely affected——

Senator HAYAKAWA. No, I am not arguing about that.

Senator MELCHER [continuing]. But they argue rather vigorously that if they are eating horsemeat, they want to be told.

Senator HAYAKAWA. All right, OK. I am not arguing about that point at all. But there is an optimum point at which you are either wasting manpower, or you aren't using enough.

Senator MELCHER. Well, I think the answer to that is that the optimum point has not been reached, and that some businesses were severely damaged. And I do not know what shape they are in now, whether Jack-in-the-Box changed their name and are doing quite well under some other name, and the franchises are doing all right, but they were certainly damaged substantially.

Senator HAYAKAWA. According to Mr. McMillan's paper as Assistant Secretary for Marketing and Inspection Services, the staff involved in inspection services can be used more efficiently. That is the fundamental point that you are making, is it not?

Mr. MCMILLAN. That is correct.

Senator HAYAKAWA. And therefore, they could inspect more effectively, with less manpower.

Mr. MCMILLAN. Yes, Senator. In addition to that, just because you have an inspector in a plant at all times at the processing level, such as we do now, does not necessarily mean that you are

going to catch everything that may go wrong. He may be at that particular point in time at another station in the plant. Therefore, he will still have to go, and does go, and look at the records of the plant to see that the product is in conformity. Senator Hayakawa is correct. You simply have got a point of diminishing returns, where it is practical to have somebody there, versus impractical to have somebody there. When I say that, I am talking about nothing which would jeopardize the wholesomeness of the product being produced. But there is a point where it is economically feasible and not economically feasible in order to assure, or be pretty doggoned assured, that the product is going to be wholesome. We maintain, within the Food Safety and Inspection Service, a rather large staff of statisticians, and I must say over the years I had not been the greatest fan of statisticians, but I have become a believer in recent years that statistical samples are, in fact, pretty doggone accurate.

Senator HAYAKAWA. Mr. McMillan, you have some colleagues—may I have their names again, please.

Mr. MCMILLAN. Yes. Dr. Houston, who is the Administrator of the Food Safety and Inspection Service, and Connor Kennett, who is the Director of the Poultry Division of the Agricultural Marketing Service.

Senator HAYAKAWA. I wonder if they have anything to add to this discussion?

Dr. HOUSTON. Thank you, Senator. No, I do not believe there is anything I could add to the testimony that Mr. McMillan gave.

Mr. KENNETT. Nor I.

Senator HAYAKAWA. You are a lot of help. [Laughter.]

I will ask one or two questions here. Mr. McMillan, according to the legislation, the Secretary may consider other factors—this is according to your paper—about a processing plant in determining if that plant would go into less-than-continuous inspection. More specifically, what would be included in these other factors?

Mr. MCMILLAN. Well, there could be a multitude of them, Senator, but one that particularly comes to mind is, let us say, the criminal element. Is there any criminal element involved in any way with this particular plant? That would be one consideration, but it could go in other directions, as well. But the track record of the plant is really going to be the most critical thing that is looked at.

Senator HAYAKAWA. Good. And in view of civil penalties, Mr. McMillan, what sanctions would the Department impose to assure compliance with the inspection standards, and are these sanctions adequate under present law?

Mr. MCMILLAN. The sanctions present under the current law would not be altered. Those would remain in place. And these involve quite a number of different things that could be done—withdrawal of product, removal of product from the market. The ultimate, of course, would be maybe even going to court. But in the meantime, you have other sanctions such as withdrawing inspection from a plant that has had a continuing history of noncompliance. And those all would remain in place within the current law and would not be altered.

Senator HAYAKAWA. All right.

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Senator MELCHER. Before we release the Department officials, what is the projected savings that you have envisioned in this bill?

Mr. MCMILLAN. We project, Senator Melcher, that by the year 1989, we would be saving in the magnitude of $26 million annually. The first year savings would be approximately $2 million.

Senator MELCHER. I want to forget about the eggs and the poultry and just concentrate right now on red meat. What are the savings in red meat?

Mr. MCMILLAN. Do you have that broken down, Dr. Houston?

Dr. HOUSTON. Well, that principally would be in red meat, since they comprise the vast majority, but there would be some poultry processed products such as poultry frankfurters, turkey ham, and so forth, included. But the majority would be red meat products.

Senator MELCHER. So, we could save about $46 million over 5 years, reaching $20 million per year?

Dr. HOUSTON. That is a fair statement, yes.

Senator MELCHER. And what is the total amount of red meat that is inspected per year?

Mr. MCMILLAN. Processed product, or including slaughters, Senator Melcher?

Senator MELCHER. Well, let's take it all.

Dr. HOUSTON. Well, we slaughter about 130 million red meat animals a year under inspection, and about 4 billion birds—broilers, turkeys, and so forth. We reinspect a total of around 98 billion pounds of processed meat and poultry products, but I must say that there is double counting there, because we reinspect some of those products more than once. So that does not represent a true figure of processed products that reach the public.

The total budget, our operating budget for 1983, is projected to be in the range of roughly $350 million.

Senator MELCHER. Well, you are getting away from the question, Doctor. About how much red meat is involved per year?

Dr. HOUSTON. I would say right now, we are spending about 47 percent of our inspection budget in the poultry area and the other 53 percent in the red meat area.

Senator MELCHER. What is it in pounds of red meat per year?

Mr. MCMILLAN. Senator, we can supply that for the record. It is a figure that is available, and we will supply it to you for the record.

[The following information was subsequently supplied by Mr. McMillan:]

Pounds of processed red meat products federally inspected, fiscal year 1981: Total, 68,695,000,000 pounds.

Pounds of slaughtered red meat, federally inspected, fiscal year 1981: Total, 37.3 billion pounds.

(Source: Meat and Poultry Inspection, 1981, Report of the Secretary of Agriculture to the U.S. Congress, March 1, 1982, p 19.)

Senator MELCHER. Well, let's say that it is 40 billion pounds. Is that too high or too low?

Dr. HOUSTON. For red meat? I would say that is in the ballpark.

Senator MELCHER. All right. So, what does 26 million into 40 billion get you?

Mr. MCMILLAN. $26 million into 40 billion pounds?

Senator MELCHER. I want a per pound figure.

Dr. HOUSTON. It is a small amount on a per-pound basis.

Senator MELCHER. About one-tenth of one cent?

Dr. HOUSTON. I think it is a little more than that, but it is well under a cent.

Senator HAYAKAWA. May I suggest, since we have four more people to hear from this morning, that if you have further questions to ask, you submit them in writing, Senator Melcher?

Senator MELCHER. Well, while they are figuring that, maybe they can tell me about how much is condemned every year. What did you come up with on your figures, one-tenth?

Dr. HOUSTON. The number of poultry that are condemned each year runs about 1 percent out of that 4 billion birds. I do not recall the figures on red meat animals that are condemned at slaughter.

With regard to processed products, it again runs into the millions of pounds and I do not have the exact figure.

Mr. MCMILLAN. We can supply that, however, Senator.

[The following material was subsequently supplied by Mr. McMillan:]

Number of red meat animals slaughtered, fiscal year 1981:	
Passed	129,011,028
Condemned	459,883
Total	129,470,911
Pounds of red meat and meat products condemned on reinspection, fiscal year 1981: Total pounds	27,220,384

(Source: "Statistical Summary, Federal Meat and Poultry Inspection for Fiscal Year 1981," U.S. Dept. of Agriculture, p. 1 and p. 7.)

Senator MELCHER. Isn't it a fact that this bill broadens the authority of the Secretary of Agriculture considerably to determine what he is going to do and what he is not going to do?

Mr. MCMILLAN. It gives him discretionary authority, Senator Melcher, that is not under present law. By that, I mean, it gives him determination as to whether or not a plant can have less than continuous inspection at all times. But it does not give him any discretionary authority when it comes to the question of the sanctions that are present elsewhere in the law. That is not being changed. It does give him discretionary authority, but only under a specific set of conditions that are spelled out within the law. For example, he would be looking, before a plant got less-than-continuous inspection, at the adequacy and reliability of the company's product monitoring system; he would be looking at the nature and frequency of the company's operations, and he would be looking at the processing plants based on the past history of the processing of that company. All of those things, he looks at, plus the current sanctions that remain in the law would be a part of any determination that the Secretary may make in his discretionary authority.

Senator MELCHER. With the idea that he is going to look at them less?

Mr. MCMILLAN. With the possibility that there would be less-than-continuous inspection.

Senator MELCHER. Well, if he doesn't look at them less, he doesn't save any money, does he?

Mr. MCMILLAN. That is correct.

Senator MELCHER. So, with the idea that he is going to look at them less. And since this applies to processed red meat, there is no intention of increasing the on-docks inspection, is there, Doctor, of the imported red meat?

Dr. HOUSTON. We have upgraded the inspection process at the dockside, and this bill would not detract from the program we now have going.

Senator MELCHER. But it would not increase it, either?

Dr. HOUSTON. No, it would not.

Senator MELCHER. It was not the intention to increase it?

Dr. HOUSTON. No. It was really aimed more at domestic processing operations rather than import inspection.

Senator MELCHER. Well, I would just reiterate the point that because of the dual line, the inspection of the imported meat at the docks, which admittedly is very scant based on the statistician's sample, which can be as low as 1 pound per 1,000, the backup was, well, after all, it will go to a U.S.-inspected processing plant and there, it will be looked at before it goes into hamburger, hotdogs, bologna or prepared meats. And now, the aim of this bill is to allow the Secretary to have less inspection at these processing plants and therefore, more chance of something slipping by.

That is all. I just wanted to reiterate that point, Mr. Chairman.

Senator HAYAKAWA. Thank you, Senator.

Secretary McMillan, we may have further questions for you and your colleagues, and we will submit them to you in writing.

Mr. MCMILLAN. Thank you, sir.

Senator HAYAKAWA. I shall invite the remaining panelists up now. Would you all like to come up together—Mr. Nissan, Mr. Mikytuck, Mr. Hicks, Mr. Riepma, Mr. Morris, and Mr. Dudley.

We have before us now Henry Morris, from Smithfield Packing Co., on behalf of the American Meat Institute; Robert Dudley, research and development, George A. Hormel Co.; Robert Nissan, president of Nissan Co., and chairman of the board of the National Meat Association; Robert Mikytuck, Jr., president of the National Frozen Pizza Institute; Larry Hicks, associate general counsel, Thomas Lipton Co.; and Siert Riepma, National Association of Margarine Manufacturers.

Now, because we got started late—we had a 10 o'clock vote on the floor which resulted in our starting 10 or 15 minutes late here, and because the Assistant Secretary's paper, although he condensed it somewhat, was rather thick and heavy, we are rather limited in time. So I am going to take it upon myself to extend the meeting to, let us say, 12:20, so everybody gets a chance. At the same time, I would like to ask everyone, if they will, to please condense their testimony so they do not read their entire paper, but to abbreviate as much as possible and emphasize the main points, so as to leave room for questions and discussion.

May we start, then, with Henry Morris, of the Smithfield Packing Co., Smithfield, Va., famous for its hams.

STATEMENT OF HENRY MORRIS, VICE PRESIDENT, SMITHFIELD PACKING CO., ON BEHALF OF THE AMERICAN MEAT INSTITUTE

Mr. MORRIS. Thank you, Mr. Chairman.

My name is Henry L. Morris, and I am vice president of the Smithfield Packing Co., Smithfield, Va. I am also chairman of the AMI Meat Inspection Committee, a committee that allows industry and government to interact on common problems.

I am here today on behalf of the American Meat Institute, a national trade association representing approximately 325 meatpacking and processing companies. Ninety percent of AMI's member companies employ fewer than 500, and 50 percent employ 50 people or less.

Accompanying me today is Gary J. Kushner, AMI's vice president and general counsel.

AMI is pleased to endorse the concepts upon which the proposed discretionary legislation is based. The institute agrees that USDA should be granted greater flexibility in determining the degree and intensity of inspection required for meat processing facilities. The proposal would not affect slaughter inspection, which would remain continuous.

AMI applauds this committee for seeking to make USDA's meat inspection program more efficient and effective by focusing its resources on those areas where they are most needed and reducing the frequency of inspection in many plants that have demonstrated exceptional compliance.

The reputation our products enjoy in the marketplace and the integrity of our brand names are the key ingredients to successful competition in an increasingly competitive market. We in the meat industry have worked to enhance this reputation because of our awareness of its importance and not because of the shadow of continuous USDA inspection.

The proposed legislation recognizes the significant strides that the meat industry has made in self-monitoring and innovative quality control, aimed at maintaining consumer confidence in our products. Under USDA's current inspection process, an inspector's work tools consist primarily of his abilities to see, smell, and feel, attributes that are hardly adequate to monitor production in an increasingly sophisticated and automated industry.

One example of how USDA and the meat industry have worked together to overcome the outmoded nature of the current inspection system was the development of a chemical basis for measuring yields for hams and other cuts. This became necessary when the industry began separating ham pieces and utilizing them in a variety of ways, a move away from regulatory bone-in hams. To make this new procedure meaningful and practical, a statistical sampling and control procedure was needed to allow for the normal processing variations. This procedure has served industry and the USDA for nearly 20 years.

There are other examples of changing technology in meat processing plants. For many years, partial quality control programs have been instituted by meat companies. Under such programs corrective measures are initiated by the plant itself. The inspector is present only as a monitor with the option of removing samples to a USDA laboratory for verification. Similar programs are already in place for raw material inspection, in-process controls, net weight control, microbiological monitoring, and pest control. Because of these many self-monitoring devices voluntarily developed by indus-

try, USDA has come to rely upon plant personnel for many of the critical evaluations made during inspection.

The industry's efforts to regulate itself should be noted. Both the meat and poultry industries have excellent records for cleanliness and the maintenance of product integrity in their plants. During the 3-year period of 1978 through 1980, when the USDA's policy was to, through a compliance review team, identify plants that had chronic problems, only four plants were named. This was from a total of 6,800 establishments, or about 1 in every 1,700 plants. Since October 1, 1981, there have been six voluntary market withdrawals of meat and poultry products under USDA's guidance. This alone demonstrates that meat and poultry plants are doing a good job.

Reducing the frequency of processing inspection will also benefit in a substantial cost savings to consumers—a beneficial byproduct of the proposal that cannot be understated during these difficult economic times. The time has come to take even greater advantage of the industry's strides by eliminating the costs created by the duplicative inspection efforts. USDA has estimated that a reduction in processing inspection frequency would save consumers approximately $42 million in taxes in the next 5 years.

Perhaps we can put this into perspective. Processed meat production grew at an annual rate of slightly more than 2 percent during the last decade. Because of changes in eating habits and lifestyles and increasing demands for convenience, we anticipate annual growth in processed meat production during the next decade to average at least 2½ percent. An estimated 2½-percent annual growth—a 28-percent increase in total production over the next 10 years—would result in a total processed meat production figure of 17.3 billion pounds in 1991. This 17.3 billion pounds is an estimate that was arrived at by the AMI statistical group, and it differs a little bit from Dr. Houston's remarks.

If inspection personnel and salaries were to increase during the next decade at the same rate that they did in the last decade, the cost per pound of inspecting meat products produced in 1991 would be 1.2 cents, or a 140-percent increase over today's cost.

Inspection costs in 1991 would then have risen five times as fast as processed meat production. This growth in inspection costs would place troublesome pressure on the Federal budget and the future of continuous inspection.

For all these reasons, AMI believes the proposed legislation to be conceptually sound, and we endorse it in principle. However, the proposed legislation as currently drafted is in need of improvement. AMI recommends refinement of two particular provisions.

First, the three factors USDA would consider in determining the frequency at which a particular plant would be inspected should be more specifically defined than they are in the proposal. AMI would urge that USDA determine the degree of inspection as it was stated in a question and answer publication issued by the Department. This publication explains that USDA would evaluate an establishment's product monitoring system and the reliability of the system, to include, but not be limited to, plants participating in the USDA total quality control program—plants with partial quality control programs and in-plant quality control programs. The Department also stated in its publication that total quality control "is

not the only route to discretionary inspection." It is conceivable that, under the present language of the proposed legislation, USDA could reduce the frequency of inspection only in those plants participating in USDA's total quality control program. For a number of reasons, many meat plants have chosen not to participate in this program, deciding instead to pursue their own quality control procedures. It must be made clear that such plants could, nevertheless, qualify for reduced inspection and that USDA would not be legally authorized to mandate participation in its program as a prerequisite to reduced inspection. Similarly, USDA should not be permitted to mandate discretionary inspection. Meat companies should be free to determine their participation in this program. Language should be added to the legislation to assure this nonmandatory approach.

The second area wherein refinement would be appropriate involves the changes that would be made in the inspection legend. Meat products produced in USDA inspection plants currently bear labels including the phrase, "inspected and passed." The proposed legislation would change that phrase to "prepared in a USDA-inspected establishment." Not only is this proposed labeling unnecessarily wordy, but more importantly, it is likely to confuse and mislead consumers who have become accustomed to and rely upon the current legend. There is nothing to be gained by the recommended change, and it should be omitted.

In conclusion, AMI commends the sponsors of the proposed legislation for recognizing the many benefits to be gained from granting USDA the authority to determine the frequency and intensity of processing plant inspections. AMI looks forward to working with this committee toward the refinement of the proposal and with USDA in the implementation of the new authority that this proposed legislation would give to the Department.

Thank you for this opportunity to present our views.

Senator HAYAKAWA. Thank you very much, Mr. Morris.

Now that I have you here, I wish to satisfy my curiosity about something that does not relate to the problem here, but is a Smithfield ham something different from other hams?

Mr. MORRIS. Oh, yes, sir.

Senator HAYAKAWA. Tell me what the difference is.

Mr. MORRIS. Smithfield ham is a dried, salt-cured ham that takes approximately 6 to 7 months to produce. It is produced in a very dry environment and aged over a very long period of time. It is a very expensive ham to produce and is consequently an expensive ham on the market.

Senator HAYAKAWA. I have often wondered about that. I have had it often, and I like it very, very much. One thing I do not know if you are aware of is that—I live near San Francisco, and I eat in San Francisco restaurants very often—and the Chinese restaurants in San Francisco are crazy about Smithfield ham. Did you know that?

Mr. MORRIS. No; but I am happy to hear that, and I will take that back to our sales department. [Laughter.]

Senator HAYAKAWA. They believe that Smithfield ham is the ultimate in hams.

Mr. MORRIS. Thank you. I appreciate that information.

Senator HAYAKAWA. I just want you to know that you have some appreciators on the west coast.

Mr. MORRIS. Thank you.

Senator HAYAKAWA. Thank you very much, Mr. Morris, and I am very, very glad to have your suggestions for possible changes in the proposed legislation.

Mr. Dudley, of George A. Hormel Co., in Austin, Minn.

STATEMENT OF ROBERT P. DUDLEY, DIRECTOR, RESEARCH AND DEVELOPMENT, GEORGE A. HORMEL CO., ON BEHALF OF THE NATIONAL ASSOCIATION OF FOOD PROCESSORS

Mr. DUDLEY. Mr. Chairman and Senator Melcher, this is a condensed testimony, in the interest of the time involved,[1] but I would like to start out by suggesting as a change of pace, sir, you might try Spam. [Laughter.]

Mr. Chairman, I am presently director of research and development at George A. Hormel Co. in Austin, Minn., and serve as chairman of the National Food Processors Association Meat and Poultry Products Committee. My testimony today is offered on behalf of NFPA.

Accompanying me to my right is Clausen Ely, who is the legal counsel for NFPA.

NFPA, sir, is a trade association representing over 600 member companies, including a large segment of the canned meat and poultry processing industries. We appreciate this opportunity to address this very important and timely proposal for increasing the USDA's flexibility to set inspection priorities and to reduce continuous inspection burdens on canned meat and poultry processing operations with exemplary compliance records and quality control systems in existence.

NFPA strongly supports—strongly supports—S. 2348 as a framework for appropriate reduction of continuous inspection of meat and poultry processing operations. While there are a few aspects of the proposed legislation that could be improved, we nevertheless applaud the USDA for supporting this legislation and making a positive effort to reduce unnecessary regulation and high Government costs, while at the same time, continuing to assure the safety and wholesomeness of meat and poultry products.

In testimony before the Senate Committee on Agriculture on the farm bill in March 1981, NFPA advocated legislation to permit USDA to phase out continuous inplant inspection of meat and poultry processing operations as processing firms acquire the capability to develop and follow their own quality control procedures. The introduction of S. 2348 is a very important step toward this goal. We made clear in our earlier testimony, and I repeat today, that NFPA support for continuous inspection is limited to meat and poultry processing operations, and we do not—and I repeat—we do not advocate any changes in the continuous inspection of slaughtering operations. As we understand it, S. 2348 would not permit the USDA to alter continuous inspection of slaughtering op-

[1] See p. 110 for the prepared statement of Mr. Dudley.

erations. Some critics of the bill have apparently failed to appreciate this important limitation.

Moreover, with respect to processing operations, the bill would increase rather than diminish USDA's enforcement capability by permitting the agency to focus its inspection resources on those plants that need it most. This has been confirmed by Federal studies, as cited in our written testimony.

FDA does not conduct continuous inspection of food processing firms. There is no reason why USDA inspection of meat and poultry processing operations should be different. USDA has the same enforcement powers as FDA, including authority to institute seizures, injunctions and criminal proceedings, as well as important powers not possessed by FDA. USDA's additional current powers include product detention, condemnation, record inspection, and premarket label approval authority. Moreover, even under S. 2348, USDA would retain authority to require continuous inspection of processing operations where it deemed appropriate, whereas FDA has no explicit authority to employ continuous inspection under any circumstances.

Against this background, we find surprising and unjustified the arguments advanced by some critics of the bill that it is necessary to grant USDA civil penalty authority to offset any reductions in continuous inspection. FDA has no civil penalty authority with respect to nonmeat products. We share USDA's opposition to civil penalty authority for meat and poultry violations.

Moreover, S. 2348 would authorize USDA to reduce continuous inspection only on the basis of evidence that a particular processing operation maintains adequate internal controls and is unlikely to produce violative products. In the light of USDA's existing multiple enforcement powers, the meat and poultry processing industry's commendable safety record, and the limited scope of S. 2348, there is no justification for granting USDA new enforcement power.

S. 2348 would grant USDA the power to determine the frequency of inspection of processing establishments, based on three important criteria: One, the nature and frequency of the processing operation; two, the adequacy and reliability of an establishment's product monitoring system, and third, the establishment's history of compliance with inspection requirements. Judged against these factors, many canned meat and poultry operations would warrant reduced inspection.

The canned meat and poultry industry has an excellent compliance record. Most NFPA members have substantial experience operating under FDA good manufacturing practice regulations and have developed effective internal audit and quality procedures for themselves.

Although we support the purpose and concept of S. 2348, there are two aspects of the bill that we believe could be improved. First, we believe that some limit should be imposed on USDA's discretion to determine the frequency of inspection under the bill. Similarly, Congress should make clear that the bill is not intended to authorize USDA to require participation in its current total quality control program, or any other specific quality control program, as a prerequisite to reduction of continuous inspection.

Second, for the reasons set forth in my written testimony, NFPA recommends elimination of the provision of the bill that would require a change in the inspection legend for meat products packed in establishments not subject to continuous inspection.

In conclusion, we commend the USDA for supporting this legislation, and the subcommittee for providing a forum to discuss it. USDA inspection costs are large, and increasing every year. The current costs of USDA continuous inspection of processed meat and poultry operations alone exceeds $70 million per year, and USDA has estimated that this legislation would save up to $42 million in the first 5 years. Moreover, the Federal meat and poultry inspection burden is increasing rapidly with the growing number of State inspection programs that are abandoned and revert to Federal control. This bill, then, is an excellent vehicle to provide USDA the flexibility to reduce its inspection costs and to focus its inspection resources in areas where they will do the most good.

No other food regulatory agency is required to bear the substantial expenses of continuous inspection. In this era of chronic budget deficits, and with the advances in food processing procedures, there is no justification for continuing to impose this burden upon our USDA.

Mr. Chairman, that concludes our testimony, and like the other witnesses, I would be happy to answer questions.

Senator HAYAKAWA. Thank you very much, Mr. Dudley. That little light up there on the clock says that there is a vote on, and Senator Melcher and I, I think, ought to run over and quickly vote, and we will be back in about 6 or 7 minutes to proceed with the hearing.

Senator MELCHER. I just want to ask one question, because I will not be able to return.

Senator HAYAKAWA. All right. I will let you Chair.

Senator MELCHER. Thank you, Mr. Chairman.

[Whereupon, Senator Melcher assumed the Chair.]

Senator MELCHER. You are not saying, Mr. Dudley, that this is going to decrease the cost of anything, are you—I mean, of any product.

Mr. DUDLEY. Well, I think that will have to be borne out. What we consider this to be, sir, is sort of preliminary legislation from which the ultimate would be attained in years to come, and whether that will affect the un[illegible] cost per product is questionable.

Senator MELCHER. Well, you have used a 5-year period. You are not suggesting that at any time during that 5-year period that the bill will reduce any cost to the consumer, are you?

Mr. DUDLEY. Sir, I believe we are repeating the figures given to us by the USDA.

Senator MELCHER. Well, they make that case. I am wondering if you are making the case, that it will cost less for consumers.

Mr. DUDLEY. No, I think those reductions in costs dealt with the USDA's costs involved.

Senator MELCHER. That is right, and those are taxpayers' costs, are they not?

Mr. DUDLEY. That is correct.

Senator MELCHER. So, the question is, whether there is too much money being spent out of the Treasury, for this purpose, is it not?

Mr. DUDLEY. I think that would be a fair statement, yes.

Senator MELCHER. And to the extent that the consumers are assured that the product is wholesome, that helps your industry, does it not?

Mr. DUDLEY. Well, we certainly believe—we hope so, yes, sir.

Senator MELCHER. And the purported savings—you mention $46 million over 5 years—I will just use the Department's own testimony of $26 million in the fifth year—what would that figure be per pound?

Mr. DUDLEY. Oh, heavens.

Senator MELCHER. Would you disagree that it is about less than one-tenth of 1 cent?

Mr. DUDLEY. I do not think I would disagree with that, no, sir.

Senator MELCHER. So, one-tenth of 1 cent would be the savings for taxpayers, and not the savings for consumers, but since consumers are also taxpayers, we should look at that figure. But it is not a very meaningful figure, is it?

Mr. DUDLEY. Well, when you put it in dollars and cents in 1982, I believe you have taken the point well. I think we look forward to additional legislation to put the burden on food companies to improve the quality of their production. This is a step in the right direction, as far as we are concerned.

Senator MELCHER. That has nothing to do with cost, does it?

Mr. DUDLEY. Not in 1982, no.

Senator MELCHER. So, if you improve the quality--which I hope you do—you may have some costs to reassure the consumer that the quality is better. Smithfield ham could be used as an example. That is a very costly item, to age something for 8 months. That is like aging scotch for 12 years, is it not?

Mr. DUDLEY. That is very true.

Senator MELCHER. So, we are talking not necessarily about reducing the cost for anybody except the taxpayer, which would be less than one-tenth of 1 cent per pound.

Mr. DUDLEY. From a cost per pound basis, I think the cost is minimum from our standpoint, but we are talking about $42 million of the Federal budget here. It is dollars, it is people. It is taxpayers' dollars as far as the number of people who are on the USDA payroll and are supported by the taxpayer in a duplicative inspection effort in many cases. And I think with the sophisticated means we have in industry of assuring ourselves of our own level of quality——

Senator MELCHER. Well, you both happen to represent some longtime successful operations, Smithfield and Hormel, and God knows we hope they will continue to be successful. But what has happened at Jack-in-the-Box?

Mr. DUDLEY. I am not sure I understand about Jack-in-the-Box——

Senator MELCHER. Well, they were the fast-food chain outfit that had the horsemeat.

Mr. DUDLEY. Oh. I honestly cannot answer that.

Senator MELCHER. Maybe they were never able to be a member of your association.

Mr. DUDLEY. I am not sure of that.

Mr. MORRIS. I am not sure of the final outcome of Jack-in-the-Box. They are a division of Ralston-Purina, I believe, and they have had some problems with their association, with the horsemeat.

Senator MELCHER. They lost money?

Mr. MORRIS. I am sure, yes.

Senator MELCHER. Thank you very much.

Senator Hayakawa will be back, as he stated, in 5 minutes.

[Short recess.]

Senator HAYAKAWA. We have more panelists that we have not heard from. Robert Nissen, we have not heard from you yet, chairman of the board of the National Meat Association. Mr. Nissen, in the interest of time, will you try to abbreviate your presentation and present its essentials?

STATEMENT OF ROBERT NISSEN, PRESIDENT, NISSEN CO., WEBSTER CITY, IOWA, AND CHAIRMAN OF THE BOARD, NATIONAL MEAT ASSOCIATION

Mr. NISSEN. Yes, Senator.[1]

Mr. Chairman and members of the subcommittee, I am Robert Nissen, president of the Nissen Co., which is located in Webster City, Iowa. The Nissen Co. produces a full range of meat and poultry luncheon meats. We employ 125 people and have been serving Iowa and the surrounding States for more than half a century.

Today, I proudly represent the National Meat Association, which is a trade association whose coast-to-coast membership includes a significant segment of the Nation's most successful meat processors and/or packers. Since February, I have served as chairman of the association's board of directors, and I can assure you that S. 2348 has been thoroughly discussed at several board meetings.

The association welcomes this opportunity to express its views on these amendments to the Federal Meat Inspection Act.

Accompanying me today are the association's director of public affairs, Paul Korody, and general counsel, Edwin Pewett, a member of the Washington law firm of Glassie, Pewett, Dudley, Beebe & Shanks. Both are prepared to help me answer any questions you might have.

At this time, I would like to summarize the statement we have included for inclusion in the official hearing record.

First, let me clarify what I believe is a gross misunderstanding of the association's position on quality control systems in meat processing plants. In some quarters, the erroneous impression exists that this association opposes quality control. Nothing could be further from the truth.

The National Meat Association has never objected to the increased use of quality control procedures individual plant operators have been and are voluntarily implementing in their operations. What the association does object to, and let me underscore this point, is enactment of any legislation that would give the U.S. Department of Agriculture authority to impose mandatory quality control on any plant, regardless of the reasons. We have consistent-

[1] See p. 114 for the prepared statement of Mr. Nissen.

ly opposed any USDA attempts to force mandatory quality control on the industry.

The role of inspection has shifted from checking every piece of meat to reviewing plants and procedures to guarantee uniform products that meet or exceed the health and safety requirements demanded by Federal meat inspection laws. The U.S. meat industry's reputation for producing the world's most wholesome meat products is proof of the current program's effectiveness that combines continuous inspection and quality control procedures.

Plants that have voluntarily implemented either partial or total quality control programs have done so because it enhanced profitability without jeopardizing product wholesomeness.

But, Mr. Chairman, let me emphasize this point at this time. It would not be a profitable venture for every plant to move to quality control. From actual experience and from discussions with other meat processors, both large and small, I can assure you that quality control inspection is not for every plant. For some, it is a natural progression and a way to become more competitive, while for others it could increase production costs to the point that their products would be priced out of the marketplace.

It is this economic threat that prompted the National Meat Association from its earliest discussions to express severe reservations about this legislation as it is currently drafted. We interpret the language to mean that the USDA Secretary would have unrestricted authority and total discretion to determine the level of inspection for any federally inspected processing plant in the country. This is totally unacceptable because it would effectively permit the Secretary to shift the cost of inspection of processors by imposing mandatory quality control programs.

There is, however, merit to this legislation. Nobody can quarrel with a goal of reducing Government costs. But to make this legislation practical, a provision must be added that would give plant operators the option of deciding whether they want to remain under continuous inspection or to shift to a total quality control program.

The USDA denies it will use this legislation to impose mandatory quality control on the industry. We do not doubt its sincerity, but we are also realistic. Time has a way of eroding original impressions and intentions, especially in times of extreme economic stress where pressure is constantly applied to reduce Government costs. Inspection is a large budget item. It is a natural target for costcutters.

There is also another consideration. What assurance does the meat industry have that future administrations will not see this legislation, as an invitation to impose mandatory quality control? We sincerely urge you to consider the long-range implications of this legislation.

There is another aspect of this bill that alarms the meat industry. As now written, the bill would require a separate legend for meat products produced in plants having less than continuous inspection. On those products, it would state that they were "prepared in a USDA-inspected plant," while on products produced under continuous inspection it would read, "inspected and passed."

The association believes it is extremely important that only one legend be used on all products. The exact phraseology is not what

is most important. What matters most is that there is a consistency, so consumers are not confused or do not lose confidence in our products. Anything that does otherwise, is a disservice to producers, our industry, and to consumers.

Mr. Chairman, other witnesses may testify today that any reduction in continuous inspection must be counterbalanced by the addition of civil penalties. They fear that without inspectors continually in the plant, meat processors will abandon required plant and production standards. This is absurd. The National Meat Association totally disagrees with this premise and the need for civil penalties.

A meat processor's most important asset is his reputation, and jeopardizing that reputation is a foolhardy risk that few, if any, processors are willing to take, with or without inspectors looking over their shoulders.

In addition, the meat industry is the most regulated industry in the country. Federal inspectors continually monitor plant and equipment sanitation and product production. When violations are found, if they affect or even potentially affect product wholesomeness, the product is withheld and production is halted until the problems are corrected. Under this legislation, processors would still be required to make certain their plants and production techniques meet all Federal requirements.

Shutting down a production line and thereby idling employees who make from $12,000 to $25,000 a year, or not releasing products for distribution are very effective ways of making processors adhere to the law. In many instances, processors now pay an extreme economic penalty for a minor infraction.

Processors operate on extremely thin profit margins. Halting production for a period of time can cost a processor thousands of dollars. Believe me, the USDA already has a big stick that gets the meat industry's attention, and in extreme cases, the USDA can withdraw inspection, which puts the plant out of business, or it can file criminal charges against the operator.

In conclusion, it is vital to the continued well-being of the industry that any legislation that would grant the Secretary the authority to set levels of inspection in meat processing plants, carry with it the requirement that plant management have the option of rejecting the Secretary's decision and remaining under continuous inspection. It is also most important that the legislation be amended so that one inspection legend will be used on all products whether produced under continuous inspection or a quality control program. And finally, there is no justification for adding civil penalties to this legislation.

With these assurances, the National Meat Association believes this legislation would be in the best interests of all concerned and would wholeheartedly endorse it.

Thank you very much, Mr. Chairman.

Senator HAYAKAWA. Thank you.

Now, what is it that you endorse in this legislation, in one or two sentences?

Mr. NISSEN. Well, we are endorsing the legislation subject to the three items I outlined there.

Senator HAYAKAWA. No—I want to know what you endorse, and then I would ask you what you do not endorse.

Mr. NISSEN. We believe that the legislation is in the best interest of our industry and the consumers, with the exception of the items that I have mentioned.

Senator HAYAKAWA. And in what way is it in the best interest of the industry?

Mr. NISSEN. Well, obviously from the standpoint of a reduction of cost to both industry and the Government.

Senator HAYAKAWA. And in what way is it a burden to your industry?

Mr. NISSEN. I do not feel that it would be a burden, sir.

Senator HAYAKAWA. But you said you had objections to it.

Mr. NISSEN. I object to it from the standpoint that we feel that the plant operators must have the prerogative to make the decision whether they want to be involved in a total quality control program or stay with continuous inspection, rather than have the Secretary tell them what it should be.

Senator HAYAKAWA. So the plant owners or managers themselves can make the decision as to whether or not they would have continuous or noncontinuous inspection?

Mr. NISSEN. Correct.

Senator HAYAKAWA. And it is up to them to decide, rather than for Government officials to decide?

Mr. NISSEN. I would think so. That would be our thinking; yes.

Senator HAYAKAWA. I just wanted to make that clear.

I have got to go and vote again. We spend half our time rushing over, saving the Republic, and delaying your testimony. So please excuse me again for another 5 minutes. I ask your forgiveness. We are going to extend this so that I hear everybody, even if it delays your lunch.

[Short recess.]

Senator HAYAKAWA. I realize, Mr. Mikytuck, Mr. Hicks, and Mr. Riepma, that some of you have come a long distance to be at this hearing, and in spite of the fact that there are pressures of other subjects facing me here, and in spite of the fact that some of you have been long-winded, I want to hear all of you. You have made a special trip and taken a lot of trouble getting your speeches and testimony ready, so I am determined that I shall hear you, even if it breaks into your lunch hour and mine, because I think you have something very, very important to say.

Mr. Mikytuck, I think you are next, from the National Frozen Pizza Institute.

STATEMENT OF ROBERT MIKYTUCK, JR., VICE PRESIDENT AND GENERAL MANAGER, ELLIO'S PIZZA, AND PRESIDENT, NATIONAL FROZEN PIZZA INSTITUTE

Mr. MIKYTUCK. Yes, sir.

Mr. Chairman, I am Robert Mikytuck.[1] I am the vice president and general manager of Ellio's Pizza Division of Purex Corporation.

[1] See p. 121 for the prepared statement of Mr. Mikytuck.

We are located in Lodi, N.J. I am president of the National Frozen Pizza Institute. Accompanying me today on my left is Mr. Richard L. Frank, with the Washington law firm of Olsson & Frank, who is our general counsel.

It is a pleasure to appear before you today on behalf of the National Frozen Pizza Institute's membership to give you our input relative to Senate bill 2348. The National Frozen Pizza Institute and its members are keenly interested in assuring the American consumer safe and wholesome pizza products, for the simple reason that no self-respecting company can be in business long doing otherwise. At the same time, the frozen pizza processors oppose unrealistic and unnecessary Government regulations, which raise prices without providing consumers a corresponding benefit.

The National Frozen Pizza Institute's membership is composed of companies which manufacture two distinct types of pizza: cheese pizzas and pizzas with cheese and meat toppings. The production of cheese pizzas in the United States falls under the regulatory jurisdiction of the Food and Drug Administration, which conducts unannounced, periodic inspections of processing facilities under the authority of the Federal Food, Drug, and Cosmetic Act. Pizzas which contain meat toppings are subject to the U.S. Department of Agriculture mandatory continuous inspection program under the Federal Meat Inspection Act. S. 2348 represents an excellent first step toward harmonizing regulation of the frozen pizza industry.

The proposed bill would amend the Federal Meat Inspection Act to permit the Secretary of Agriculture to determine the frequency and type of USDA inspection conducted at establishments which process "meat food products," including meat-topped pizza.

The bill would allow the Secretary to determine the frequency and intensity of inspection on a plant-by-plant basis. This legislation amends the label legend provisions by requiring the alternative legend phrase, "Prepared in a USDA Inspected Establishment," instead of "Inspected and Passed," for plants operating under less-than-continuous inspection.

The proposed legislation is a recognition of and a response to changing trends in meat processing over the years. Advancements in food processing and handling technology have obviated the need for continuous inspection for many further processing establishments and, in particular, frozen pizza plants. The legislation also responds to repeated recommendations from the General Accounting Office and industry for USDA to change its inspection approach, type, and frequency.

The National Frozen Pizza Institute's membership strongly supports many of the concepts embodied in S. 2348. We support the provisions which allow the Secretary to exempt from continuous inspection those further processors who have demonstrated the ability to produce safe and wholesome products. Meat-topped pizza, more than any other product category, should be considered in our collective, honest opinion for less intensive inspection. The reasons for our conclusion are as follows.

Today, many pizza manufacturers process both cheese and meat-topped pizzas in the same facility. The cheese pizza manufacturing line is subject to periodic inspections by the Food and Drug Administration, possibly once a year, and by the States' Department of

Health maybe once or twice a year, while the meat pizza manufacturing line is subject to the mandatory continuous inspection of the Department of Agriculture. Such an overlap in inspectional authority is costly overregulation by the Government and in dire need of reform. Indeed, at a recent meeting of the Association of Food and Drug Officials, Food and Safety Inspection Service Administrator, Dr. Donald L. Houston, announced that USDA favored the transfer of regulatory responsibility of marginal meat food products, such as meat-topped pizzas, to FDA in an effort to make more consistent the regulation of this industry. The National Frozen Pizza Institute supports the concept of consistent and uniform inspection of both cheese and meat pizza segments of the industry.

Continuous inspection of meat-topped pizza manufacturing facilities is costly to both industry and the Government and does not provide a clear corresponding benefit to the consumer. Under USDA's continuous inspection program, each manufacturer must obtain facility, equipment, and label approvals, total or partial quality control program approvals, pay overtime charges, and provide special facilities and equipment for the inspector. There is no evidence that these added regulatory costs produce a pizza more wholesome than one produced under the FDA and States' Department of Health periodic inspection programs. Additionally, these unnecessary, added costs raise the price of the product that must be borne ultimately by the consumer.

Third, many meat-topped pizza manufacturers utilize processed, precooked, meat on their products, which has been USDA inspected and labeled—such as pepperoni, sausage, hamburger, bacon, and Canadian bacon. Those processors utilizing precooked and approved meat ingredients merely slice and/or apply the processed meat to the pizza product. The only further processing which occurs is the freezing and packaging of the pizza product.

Senator HAYAKAWA. OK, that makes the point. Go on to the next paragraph, will you?

Mr. MIKYTUCK. Some meat-topped frozen pizza manufacturers receive USDA inspected raw meat from licensed establishments and perform a certain degree of meat grinding and/or cooking on the premises prior to application to the pizza. In this situation, the legislation allows the Secretary to exempt these further processors from continuous inspection based upon the compliance history of the firm and adequacy of the quality control program implemented. Many National Frozen Pizza Institute members currently have in place total or partial quality control programs which assure a safe and wholesome product. Accordingly, many National Frozen Pizza Institute members should be eligible for less intensive inspection under this bill.

Mr. Chairman, the reasons I have just outlined demonstrate that the legislation before you will result in less costly regulation of further processing facilities without compromising the safety or wholesomeness of the product. This legislation should also result in savings to the manufacturer, consumer, and Government alike. However, we do have several concerns with the bill which we would like to bring to your attention at this time.

Section 102(2) of the bill allows the Secretary to consider the adequacy and reliability of an establishment's product monitoring

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system in determining the type and frequency of the inspection. While the National Frozen Pizza Institute is in favor of the use of certain quality control systems in further meat processing plants, this legislation should not be interpreted to permit the Department to mandate total quality control programs as a condition precedent to less-than-continuous inspection. Rather, in those facilities where there are demonstrated safety concerns, the Secretary should determine the degree of quality control necessary for the production of a safe and wholesome product without continuous inspection. Where such concerns do not exist, quality control should not be required.

Senator HAYAKAWA. And now, will you summarize the two things you oppose?

Mr. MIKYTUCK. Yes, sir. In summary, the National Frozen Pizza Institute generally supports S. 2348, which should result in cost efficiencies for industry, Government, and the consumer. If enacted and properly implemented, inspection costs, particularly overtime costs, should be reduced without compromising consumer protection. In addition, this legislation would allow the Secretary to shift the Department's inspectional resources to those areas where there truly exists human safety or health concerns.

Thank you very much for your time and consideration, and we would be happy to answer questions, also.

Thank you, sir.

Senator HAYAKAWA. You do oppose the two different labeling legends?

Mr. MIKYTUCK. Yes, sir. That is in my written testimony, and I would like that to be a part of the record.

Senator HAYAKAWA. Yes, and it will be. And then, you have one other objection, or is that the basic objection?

Mr. MIKYTUCK. The civil penalty; we also have the inclusion of that in there, and I would like that to be made part of the record.

Senator HAYAKAWA. Fine. That will be included in the record, also.

Thank you, very, very much.

Larry Hicks, of Thomas Lipton Co., Englewood Cliffs, N.J.

STATEMENT OF LAWRENCE E. HICKS, ASSOCIATE GENERAL COUNSEL, THOMAS J. LIPTON, INC.

Mr. HICKS. Thank you, Mr. Chairman. I am Lawrence E. Hicks,[1] associate general counsel for Thomas J. Lipton, Inc., a company headquartered in New Jersey, so we represent the New Jersey end of the testimony today.

In contrast to some other people on the panel, however, I come before you to simply represent my company, rather than a group of companies.

Lipton manufactures a variety of food products, including Lipton tea and soup, Knox gelatin, Pennsylvania Dutch noodles, Good Humor ice cream—which I commend to you for consumption before, during, and after your Smithfield ham, sir.

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[1] See. p. 127 for the prepared statement of Mr. Hicks.

For many years, we have been the Nation's leading manufacturer of dehydrated chicken soup, and it is with regard to this segment of our business that I appear before you today. The chicken noodle soup is subject to the jurisdiction of the USDA and to the Poultry Products Inspection Act.

Lipton supports the proposed legislation and the criteria to determine which companies would be exempt from continuous inspection, because we feel that we represent a company that has in place a quality control system that is exemplary, that would fit within the criteria of the legislation, and would provide an instance of a product which would not be subject to continuous inspection but would provide full protection to consumers in every regard.

I might elaborate on that briefly, if I may. Lipton has one of the most sophisticated quality control, quality assurance systems of any food processing company in the United States. We have, in the 12 years since we have had our current system, never had a product integrity failure with regard to chicken noodle soup. In fact, during the entire 30-some years we have manufactured soup products, we have never had a plant close down or line shut down by USDA due to insanitation.

This excellent record of compliance, I think, fits well within the criteria of the legislation, which would permit exemption from continuous inspection.

And in addition to that, USDA has given Lipton the highest quality control rating that is possible on a scale of 1 to 4, which is a 4 rating, which today means that our production facilities are subject to only an indepth inspection once every 3 years.

We have a production facility in Santa Cruz, California, where we have one inspector full-time. We have a facility also at Flemington, New Jersey, with two full-time inspectors. Last year, we paid over $12,000 in overtime, but in addition to that, USDA regulations require that we provide separate facilities for the inspectors. We obtain facility and equipment approval from USDA. We submit labels and formulas to USDA for approval and for modification. These activities are costly, and I would like to emphasize this in contrast to the focus of some prior comments. The USDA inspection system imposes a separate set of costly procedures on a business that produces inspected products. It would be very difficult to give you a precise number on that, although I think it could be calculated, but I wish to emphasize that it is significant, and it does put upward pressure on food prices.

It should also be noted that Lipton produces a full range of products at our two plants, most of which are not subject to USDA jurisdiction. In fact, of the total product line for manufacture, the inspected products represent only about 4 percent of our gross sales. Therefore, 96 percent are really subject to FDA jurisdiction, to the jurisdiction of State health inspectors, both in the States of New Jersey and California, where the plants are located. The inspections by FDA, in contrast, are about once every year. USDA's, of course, are continuous on a daily basis.

For these reasons, we do not believe that continuous inspection is necessary. Under our current system, the one that governs FDA products, we can ensure quality and integrity; it is a quality and integrity program that would continue irrespective of USDA in-

spection, because it is not done because USDA inspectors are present; it is because we have to protect the good will of the Lipton name.

Products we sell are "poultry products" only because they come within the definition of poultry products in the act, and we are not exempted by reason of having less than 2-percent poultry in our soup products. It would be entirely possible, with a minor formula modification, to reduce the level of poultry and thereby be exempt. So I want to make a point here that is not in the written testimony. The question, it seems to me, before the committee is not whether or not there should be a level of exemption from the act. There is currently a level of exemption from the act. The question is whether or not there should be additional criteria or other criteria, permitting the Secretary of Agriculture to exempt companies from continuous inspection. Even were Lipton Co. to drop below the 2-percent level, for example, we would still be handling somewhere in excess of 2-million pounds on wet poultry equivalent per year. So I would suggest to you that in that case, we curiously would be exempt from inspection, whereas a company which might be handling only 2,000 pounds of poultry product would be subject to inspection if they had products containing more than 2 percent. The focus should be on quality controls in place at the production facility to guarantee product integrity. And this legislation permits the Secretary to make a determination on that basis and not an arbitrary basis, such as 2 percent.

Therefore, due to the nature of our operation, we would suggest that we represent an example of a company that should be exempt from continuous inspection. We would not argue that we should not be subject to periodic inspection.

We continue to be a poultry product and so labelled, and we would not object to periodic inspection. However, the cost of continuing inspection is simply unwarranted.

I would make one other point which represents an objection to a position taken by the Department, however. There has been mention made that the exemption from continuous inspection would possibly by given only where there was a total quality control program. I suggest in our case that that would be inappropriate, for two reasons.

First, our current quality control program is quite adequate, as is evident by the history of compliance, as recognized by USDA itself. Second, we represent a situation where the tail does wag the dog. Four percent of our product is subject to USDA jurisdiction; 96 percent to FDA jurisdiction. To have a full USDA-imposed quality control program would be imposing a program appropriate for 4 percent on 100 percent of our product, because it would not be economical to have two separate quality control systems. I suggest it is unnecessary in fact, and it is unnecessary as part of the legislation.

Thank you for the opportunity to present our views, and I, too, would be happy to answer any questions.

Senator HAYAKAWA. Thank you very much, Mr. Hicks.

Mr. Siert Riepma, can you condense your testimony, sir?

STATEMENT OF SIERT RIEPMA, PRESIDENT, NATIONAL ASSOCIATION OF MARGARINE MANUFACTURERS

Mr. RIEPMA. I certainly can. I would ask that my written testimony be put in the record, but I do have a very succinct statement and one or two comments I would like to make.[1]

Senator HAYAKAWA. All right.

Mr. RIEPMA. I think in one of your books, Mr. Chairman, you say that the most convincing statement is a short one.

I am Siert Riepma. My purpose in being here is to present the views on S. 2348 for the members of the National Association of Margarine Manufacturers, of which I am president. And we do appreciate the opportunity to appear.

In the first place, we support S. 2348, that the chairman has sponsored, and also, the Secretary of Agriculture has stated that it gives needed flexibility to the Department of Agriculture to deploy its inspection resources by means of patrol or monitoring inspection of qualifying meat processing plants.

Actually, many margarine manufacturing plants already have a very similar system called "continuous surveillance," a voluntary program of plant responsibility and monitoring, which the Department extended to us in 1969. So, in a very basic respect, we are already where the bill would like to put us.

But at the same time, Mr. Chairman, we most respectfully ask you to incorporate in S. 2348 language that would remove margarine from the legal definition of meat food product. Our purpose here is simply to unify all margarine regulation in one agency, the Food and Drug Administration. I know of no opposition to this, and there is no reason why this should not be done. There, in fact, is no real difference between animal fat and vegetable oil margarines, as far as production standards and most labelling rules go. Margarine is not truly a meat food product. It is several steps removed from slaughtering and meat processing in the ordinary sense.

Actually, only 4 or 5 percent of all the margarine made is under the Department's regulation, and it is a very fractional part of the industry. And 95 percent of margarine is under the FDA's regulation as vegetable product.

So we have two sets of regulations, we have two standards, we have two sets of inspectors, both of whom can be in the same plant at the same time, and often are, and we have two sets of labeling requirements to follow at all times. It does get rather confusing and burdensome.

Complete uniformity is not possible between these agencies, because they operate under different statutory requirements, but all credit must be given to both of them, for they have tried very hard to create uniformity for margarine regulation.

In 1967, the Wholesome Meat Act asked that this be done, and a House committee has since made a similar request regarding margarine labeling, and a bill has been introduced to put animal fat margarine under FDA.

Mr. Chairman, that sums up our proposals and our comments on this bill. Thank you very much for your consideration of it.

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[1] See p. 131 for the prepared statement of Mr. Riepma.

Senator HAYAKAWA. It sounds like a most sensible idea.

Mr. RIEPMA. I was hoping you would say so. We have been pushing it, Senator, for some time. [Laughter.]

Senator HAYAKAWA. And no one listens?

Mr. RIEPMA. Yes, they listen, but they feel that the meat act does not allow them to make such a change. It has to be a legislative action, which is why we appeal to you.

Senator HAYAKAWA. All right, sir.

I would like to give you another 5 minutes or so for anyone who wants to make an additional remark they feel they should have made earlier.

Anybody?

[No response.]

Senator HAYAKAWA. When we go over the testimony ourselves, we shall be mailing you some questions that may occur to us, and I hope you will find time to answer so that we will have a full documentation of all your points of view.

Meanwhile, let me thank all of you for your participation, for the distances you have traveled, for your careful preparation of your testimony, and for what you have contributed to our knowledge of this subject.

Thank you all very, very much. The meeting is recessed until 2 p.m., this afternoon.

[Whereupon, at 12:45 p.m., the subcommittee recessed, to reconvene at 2 p.m., in room 324, Russell Senate Office Building.]

MEAT, POULTRY, AND EGG PRODUCTS INSPECTION AMENDMENTS OF 1982

WEDNESDAY, AUGUST 11, 1982

U.S. SENATE,
SUBCOMMITTEE ON AGRICULTURAL RESEARCH
AND GENERAL LEGISLATION OF THE
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C.

The subcommittee reconvened, pursuant to notice, at 2 p.m. in room 324, Russell Senate Office Building, Hon. Mark N. Andrews, presiding.

Present: Senator Andrews.

STATEMENT OF HON. MARK N. ANDREWS, A U.S. SENATOR FROM NORTH DAKOTA

Senator ANDREWS. The subcommittee will come to order.

I am pleased to chair the hearing this afternoon on S. 2348, legislation designed to give the administration more authority in determining the number of Federal inspections required in individual meat, poultry, and egg processing plants.

I know that in hearings held this morning the committee heard from the administration and from industry witnesses. This afternoon we are going to hear from a panel representing consumer groups, including Carol Tucker Foreman of the Consumer Federation of America; Rod Leonard of the Community Nutrition Institute and Arnold Mayer, international vice president and director of government affairs of the United Food and Commercial Workers International Union, AFL–CIO.

The second panel consists of Lee Campbell, president of the Poultry and Egg Institute of America; George Watts, president of the National Broiler Council; and Lew Walts, executive vice president, National Turkey Federation.

I realize, of course, that there are sharply differing views on this proposed legislation, with the industry feeling that it does not go far enough and most consumer groups saying it will be the end of clean meat in America.

I want to assure all of you that your views are most welcome and will be fully considered by this committee before the final bill is reported to the full Senate. I have always advocated that the consumer must be protected from contaminated meat products. But this has to be done at the least possible cost to the Government, the industry, and the consumer.

The purpose of this hearing is to determine how that best can be done. I am now happy to welcome the first panel of witnesses and will hear each of your testimony. It will, of course, appear in the record in total, but I invite each of you to summarize it if you wish, which will give us more time for questions and answers. And I will, of course, try to save my questions until all three of you have had a chance to make your statements.

The first panel, as I said, is made up of Carol Tucker Foreman, Rod Leonard, and Arnold Mayer. Let me point out when I was in the House I had the good fortune of doing business with Carol on many occasions. And I found she is one of the most effective advocates in and out of Government for things which she believes in. It is great, of course, Carol, to have you back. If it is OK with you, you might lead off this three-person panel. It certainly will not be the first time you and I have discussed meat inspection.

Ms. FOREMAN. No; but it is the first time when you have been a chairman.

Senator ANDREWS. That is right.

Ms. FOREMAN. Congratulations.

Senator ANDREWS. I appreciate that. I know that coming from the consumer side of things, you are not all that appalled at this particular Republican chairing the panel.

Ms. FOREMAN. That is true.

STATEMENT OF CAROL TUCKER FOREMAN, CONSUMER FEDERATION OF AMERICA

Ms. FOREMAN. I am serving as food and nutrition adviser to Consumer Federation of America today, and I will summarize my testimony as briefly as I can.[1]

Since it was first passed in 1906, the Federal Meat Inspection Act has been strongly biased in favor of consumer protection, and each time Congress has reconsidered the law, they have reaffirmed that initial commitment to consumer protection. In fact, every time Congress has amended the law it has been to strengthen it. The result is that the United States has the cleanest meat supply in the world. The meat and poultry industry, over the 76 years of the act, have prospered.

Congress and the administration and the industry, therefore should think twice before turning their backs on 76 years of success.

While the meat and poultry inspection program has been a success, there are clearly problems there. Dirty meat still gets to the public. The program has become entirely too expensive. There is clearly not enough flexibility in how the goals of the program are accomplished. Bribery and extortion do continue. And I think, perhaps most importantly, new problems have to be confronted. The incidence of disease among animals is decreasing, but chemical contamination is increasing.

Congress should think about acting to resolve as many of these problems as possible as it considers this legislation.

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[1] See p. 135 for the prepared statement of Ms. Foreman.

The bill before you is part of a long-standing program to improve and modernize meat and poultry inspection.

In 1977, both Booz-Allen and Hamilton, a private consultant to the Department of Agriculture, and the General Accounting Office recommended changes, both of them including quality control in those changes.

In 1978, the Department of Agriculture staff proposed a quality control improved poultry post mortem inspection and expanded checks for residues be built into the Department's inspection programs.

In addition, from 1977 to 1980, the Department tried to strengthen the compliance staff and find new ways to deal with violations of the law.

The bill before you now would allow noncontinuous inspection in processing. I do not think that is a bad idea, but I think the bill lacks specificity and standards and penalties that are necessary to continue consumer protection.

First of all, the legislation is excessively vague. It is granting discretionary power to the Secretary, is broad and nonspecific and lacks even minimal congressionally mandated standards. Specifically, the first sentence of section 102 appears to leave open the possibility that the Secretary might extend less than continuous inspection to meat slaughter inspection as well as processing inspection.

In the law now, all inspection is the same, continuous. Therefore, it has not been necessary to define where slaughter ends and processing begins. However, what is proposed here is two different kinds of inspection—two different levels of inspection. And, if that is going to take place, then it is necessary for Congress to specify when slaughter stops and processing begins.

Section 102 also attempts to outline boundaries of the Secretary's discretion in determining levels of inspection, but the language is terribly vague.

In part 1 of section 102, there is no definition of the words "nature" and "frequency." Congress should provide guidance to the Department on those processing operations that are particularly susceptible to very serious adulteration.

In part 2, there is no standard for what constitutes an adequate and reliable product monitoring system. Congress should specify minimum standards there, allowing the Secretary to go beyond them if he desires.

For example, an adequate product monitoring system will define organizational relationships between the production manager and the quality control manager. The quality control manager should have authority to stop production if all quality control procedures are not being met.

There should be minimum standards for employment as a quality control manager. Critical processing points, such as time and temperature controls, should be specified. And there should be standards for notification of the Government and of the public if the product monitoring system is breached.

The fact is that the bases for all these suggestions are in the regulations that the Department of Agriculture applies to quality control now. But Congress needs to codify some sort of minimum standard here rather than leaving the language totally vague.

In part 3 of section 102, it is stated that the Secretary shall base inspection intensity on the establishment history of compliance. That becomes terribly important in this new system. However, Several actions have been taken to limit the effectiveness of the compliance system that they expect to play a major role. It is essential for the compliance staff to have both status and some degree of independence if it is to be effective.

Today the compliance program has been compromised.

The position of Deputy Administrator for Compliance has been abolished, and the compliance staff no longer has direct access to the Administrator. The program review staff no longer keeps a list of problem and chronic problem plants and the review system has been altered so that they do not visit the worst plants as often as before.

The list of plants falling below acceptable standards is no longer made public and no effort is made to withdraw inspection from them.

After a Kansas City Times reporter used information contained in program review reports to write a series of stories about filthy meat coming from approved plants, the Department announced it would no longer release those reports under the Freedom of Information Act.

The Reagan administration has sent you a bill asking that Congress and the public vest trust in a compliance system that has been set up by a Secretary who is undercutting the system.

In addition, the Department has now instituted a procedure that allows, under some circumstances, a company to join with the Department in determining whether or not to announce a recall of contaminated meat. You have asked the public in this legislation to trust an industry to police itself, but then people behave as though there is something to hide from the public.

Given the fate of the compliance staff and other actions taken by the administration under reduced standards, it is questionable whether the public trust should trust the Secretary to administer equitably the totally open ended grant of power at the end of part 3 of section 102, which allows him to consider any other factors that he may deem appropriate.

That language might allow him to determine, "Well, it is going to rain outside today, so we won't enforce the quality control procedures."

There are several other vague and inadequate provisions under the new proposal. Inspection stamps would be under the control of the plant management and used at their discretion rather than being under control of inspectors.

Congress should require that a specific employee be designated responsible for this function and require that he be bonded and establish criminal penalties for misuse of the inspection stamp.

The bill provides that the Secretary may remove inspectors from plants that fail to destroy condemned meat products. Congress really should not grant the Secretary discretionary powers in this area. The public has to be assured that any attempt to pass adulterated products will be dealt with swiftly and surely.

Finally, because the integrity of the quality control system is primarily dependent upon records, section 102 should be expanded to

authorize specifically access to books and records and authority to interview individuals.

Turning now to the absence of penalties for violation of the law. The legislation makes no provision for penalizing those who violate the public trust assumed in operation of a quality control system. If noncontinuous inspection is approved, inspectors will no longer be in the plant to prevent violations. The temptation to cheat will clearly be there. Everyone, plant managers and the public, must be assured that the breach of public trust will be met with strong and painful action.

The Department has argued that it already has both power to invoke criminal penalties and ultimately to withdraw inspection. However, the 1978 USDA report on strengthening meat and poultry inspection stated, first, that the hearings held, that are required to be held on proposed withdrawal of inspection, are so protracted that the penalty is virtually never applied. And, second, that criminal penalties are seldom applied since only a small percentage of the cases are prosecuted.

With inspectors constantly on the premises, that is not much of a problem. Inspectors simply stop production until everything that needs to be done has been done. But, without an inspector on the premises all the time, the existing penalties are inappropriate.

Booz-Allen & Hamilton, the General Accounting Office, and the USDA staff were all unanimous in recommending the creation of economic deterrents; that is, civil penalties for violation of the quality control system or any of the changes that are recommended in the program.

Congress should consider a system of graduated penalties for violation of quality control procedures and specify these in the law.

A first violation, or a minor violation might be penalized by increasing the intensity of inspection for a certain period of time to make sure that problems leading to the violation have been worked out and requiring the plant to pay for the increased cost of inspection.

Booz-Allen & Hamilton endorsed this type of penalty.

A first violation might result in increased inspection and added costs for a period of, say, 60 days. A second violation might reasonably result in increased inspection for 6 months. A third violation, or a violation of a very serious nature, should result in cash fines being assessed, as noted before.

The 1978 USDA report contemplated a maximum of $100,000 and a minimum not less than the expected sale value of the lot in question.

Finally, Congress should act to strengthen public protection against the growing problem of chemical residues in meat and poultry, Mr. Chairman. Major contamination problems arose in 1979 and 1980. In response to the concern expressed by Public Health officials and Congress, USDA, in the late seventies, stepped up its efforts to see that harmful residues are eliminated from meat and poultry and sought congressional authority to create an animal identification system so that residue problems can be traced back to their source and to quarantine animals at the source to insure that they are not contaminated.

What the public and many Members of Congress do not realize is that the residue problem program is not designed to keep contaminated meat from reaching the public. It merely monitors the incidence of violations and tries to prevent recurrences.

Learning of the problem and trying to prevent consumption of contaminated meat is a bonus that sometimes occurs and then sometimes does not occur. The public and the Congress and the industry and the Department were distressed last year when it was discovered that kangaroo meat had been passed out as beef. That sort of economic adulteration is obviously illegal and it is very important to prevent it if at all possible.

However, while discovering that you have eaten kangaroo meat might tend to give you a bit of queasiness, it is not dangerous to the health. There is a good chance that the American public consumes meat with violative levels of carcinogenic and teratogenic chemical residues with some regularity. Those may be very dangerous.

The Department is continuing efforts to prevent residue violations and to develop quick tests to determine if residues are present. However, they have dropped the legislation that would make it possible to trace and quarantine animals at the source of a residue problem.

The number of violations on residues has not dropped. You do not see stories about residue contaminated meat and possibly that is because standards for recalls have been changed and an agreement with companies to withhold announcements of recalls in some cases has been instituted.

Congress should insist that recalls of contaminated meat be made public. Finally, you should consider the creation of an animal identification system.

There is merit in the institution of less-continuous inspection in meat and poultry processing. However, the bill before you is vague and inadequate. With penalties and some congressionally mandated standards added, I think it would be substantially improved. However, rather than passing this legislation at the tailend of a Congress, I think it would be very worthwhile for Congress to decide to undertake some very detailed oversight of how the meat and poultry inspection program is working—not just legislation that will save money, but legislation that might truly inform the Congress about steps that have been taken and future steps that need to be taken to insure continued public protection.

It is true that we live in a time when Congress is being urged to rewrite a number of laws enacted over the past 40 years, but I do not think that this Congress wants to be the one to reverse the pattern of 76 years and weaken the longstanding Federal commitment to clean poultry and meat.

Thank you, sir.

Senator Andrews. Thank you very much, Ms. Foreman.

Our next panelist is Rod Leonard, Community Nutrition Institute.

Mr. Leonard, I have not known you nearly as well or for as long as the other two members of the panel, but your reputation is excellent and we are delighted to have you here with us.

As I mentioned to Ms. Foreman, you can proceed to summarize your testimony. It will appear in total, as if given in its entirety and it will give us a little more time for questions.

STATEMENT OF ROD LEONARD, COMMUNITY NUTRITION INSTITUTE

Mr. LEONARD. Thank you very much, Mr. Chairman.

We sent a letter to the committee in June which represents the viewpoint on this legislation of 32 organizations, consumer organizations, environmental, labor, senior citizen, and health professionals.

What I would like to do is have that material entered into the record.[1]

Senator ANDREWS. We will put it in the record.

Mr. LEONARD. And what I would do is just summarize then in testimony.

The Wholesome Meat Act gives the Secretary of Agriculture no latitude in his responsibility to maintain the wholesomeness of meat food sold to consumers. In fact, even as recently as 1972 the Federal courts have said that the primary purpose of the Meat Inspection Act is to benefit the consumer. Yet, what this legislation will do is give the Secretary complete discretion to apply nonhealth considerations in exempting meat processing plants from continuous inspection.

That is the first problem.

The second problem is that should any plant abuse that discretion, the legislation gives the Secretary no additional authority to discipline those firms. And that authority, I think, is critical, as Carol Foreman has indicated.

The third problem is that if a plant does abuse the authority, and distributes a product that is not wholesome, the USDA has no specific authority to recall that product. That, of course, is just sheer hypocrisy.

The Department argues that the legislation will reduce inspection costs. But, when you look at the true purpose, it is to tear down a fundamental safeguard of consumer protection that has existed almost 80 years. I speak with some conviction about this. I was administrator of the agency that proposed the legislation that carried out the first major revisions in the Wholesome Meat Act in 1967. And in 1968, I supervised the merger of the meat and poultry inspection programs at the Department.

So I know that there is a difference between actions which are truly cost saving and actions which are proposed as cost reductions which are Trojan horses to permit less industry regulation and reduce the quality of our food.

There are two premises that undergird this proposal. They are both questionable and one is essentially false. The first is that the regulatory agency should establish good manufacturing practice standards. The role of the regulatory agency is to establish standards of wholesomeness. Then food manufacturers design procedures to carry out those wholesome standards.

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[1] See p. 147 for the prepared statement of Mr. Leonard, and p. 148 for the June 4 letter to Senator Helms.

When the Federal Government establishes standards for good manufacturing practices, it assumes a management role that it cannot exercise.

The second premise is that all meat processors operate within a band, or zone of good practices; and, the USDA can maintain product quality by monitoring this process. The problem in food safety is not defining standards for good manufacturing practices, but of how to minimize the risks of management decisions to relax those standards.

About 85 percent of the meat food products in the United States would be produced in wholesome condition if there were no Federal regulations whatever. The cost of being caught producing unwholesome products is too high for most stockholders. Quality control is essential to good management. And if this were not so, I think the meat inspection program would cost at least what the MX missile program is going to cost. The costs would go just absolutely sky high.

The problems in meat and poultry inspection always come down to that last 15 or so percent of output. If it is produced up to the quality that the public expects and that Federal regulation requires, that last 15 percent will cost the plant manager more than management is willing to pay always. If you examine the source of the disputes, the controversies, and the complaints that occur in the present system, most arise out of disputes between plant managers and inspectors of the practices that will lead to less than adequate food quality.

The system we have is old, but it is not old fashioned. It heads off problems before they occur, and that is always the best way of staying out of trouble. The proposed legislation not only will allow problems to occur, but will encourage them. Firms that abuse public health will neither be penalized nor will USDA force the withdrawal of potential hazards. So, what will they have to lose?

Thank you very much.

Senator ANDREWS. Thank you very much for an excellent statement.

Our final witness on this panel is Arnold Mayer. Arnold, you and I go back a long time together. Let me say for the record and for the general public you have given me a lot of advice. While I have not followed that advice all of the time, it has always been extremely accurate and extremely helpful as well. And I value your friendship and your good ideas in keeping us informed of the very definite feelings you have on a lot of legislation, speaking for yourself personally and speaking as ably as you do for your organization. It is great to have you here this afternoon and we will be glad to hear your testimony.

STATEMENT OF ARNOLD MAYER, INTERNATIONAL VICE PRESIDENT AND DIRECTOR OF GOVERNMENT AFFAIRS, UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION (AFL-CIO)

Mr. MAYER. Thank you, Mr. Chairman. I greatly appreciate your remarks. I have great admiration and great respect for your ability

as a legislator and also as an expert on agricultural matters and the economy.

My name is Arnold Mayer. I am an international vice president and the director of government affairs of the United Food and Commercial Workers International Union [AFL–CIO].

The UFCW is a labor union with 1.3 million members organized in some 700 local unions throughout the United States and Canada. The UFCW and its local unions have collective bargaining agreements with tens of thousands of employers throughout the food processing, retail sales, fur, leather, health, commercial, shoe, and other industries.

About a quarter million of our members work in the meatpacking, meat processing, poultry processing and egg processing industries. Additional hundreds of thousands of our members work in wholesaling and retailing meat, poultry and egg products.

Mr. Chairman, the United Food and Commercial Workers strongly oppose S. 2348. We firmly believe that enactment of this legislation and its administrative use would pose tremendous dangers for consumers, the meat, poultry, and egg processing industries, and the inspection service.

The bill would give the Secretary of Agriculture an absolutely blank check to determine how often inspection would occur at a particular plant—continuously, a few times a day, a few times a week, once every 5 years. The legislation puts no restrictions on the Secretary. It sets no standards, no qualifiers—only some vague and very general factors which the Secretary may consider.

Further, the bill sets no civil penalties for plant violations even though the Booz-Allen & Hamilton report and the General Accounting Office found these additional and more flexible penalties essential under the present system. They will be absolutely essential under the new legislation.

The bill provides powers which the Secretary simply should not have for the good of not only consumers and the industry, but also for the good of the Secretary himself.

With the continuing budget crunch, with David Stockman's recent call before the Senate Budget Committee for still more domestic program cuts in coming years, the Secretary will be under incredible pressure for additional deep budget slashes in USDA.

It is not beyond reason to expect OMB to order immensely dangerous cuts in processing inspection—to the point of near noninspection—if this bill were a statute. It is not simply a problem of some Secretary misusing the immense power which this bill would provide, it is also a problem of the OMB using the authority to bludgeon the Secretary into ordering inspection cuts which he and his staff know are extremely dangerous to the public health and public good.

The meat, poultry and egg processing industries are very competitive. A small fraction of a cent a pound means the difference between large profit and devastating loss. The pressure to stay abreast or ahead of the competition is immense. In these circumstances, Federal inspection functions not only to protect consumers against adulteration and misbranding, it also sets and enforces basic minimum standards in the industries. To reduce inspection will mean tremendously increased pressures to get ahead of the

competition by downgrading the product, by rounding a few corners.

The consumer by himself or herself will not be able to tell the difference. He or she will not know if more fat is added to the product illegally. He or she will not know about mislabeling on the meat content. In fact, he or she will not even know what product that the individual ate caused the sickness. The inspector who checks the plant on a continuous or patrol basis provides a real protection without which the consumer simply cannot do.

Even under the present system, which we believe to be quite good, problems occur. The system is hardly perfect or foolproof. Some companies may wittingly or unwittingly manufacture problem products and the facts are not found for some time. We understand, for example, that the use of kangaroo meat among the imported Australian ground beef went on for several months before discovered. There are stories of inspectors spotchecking cooked batches and finding salmonella which probably was present in previous batches and passed.

If these problems periodically occur now, how often would they occur with this legislation, with deep budget cuts and great business competition? How many ill and cheated men, women, and children would have to pay for this legislation?

In dealing with this proposed legislation, please consider what the Food and Drug Administration does to check other food industries. FDA will inspect a plant if it has reason to believe a problem is occurring. Additionally, it makes random checks of food plants once every few years. As a result, FDA is extremely limited in its problem-prevention function.

FDA is often desperately chasing consumer products which are dangerous to human health and are already being sold to consumers. Its inspection system is generally not able to detect these products during the manufacturing stage. People often have to get sick first before a dangerous food product is discovered. Then, a mad chase occurs. Much publicity is poured out in the hopes of warning consumers to avoid buying or using the particular cans in question.

We do not want to duplicate this situation for meat, poultry or egg products. These goods are susceptible to health dangers if improperly processed. They are good candidates for adulteration and misbranding. It is suicidal for the good name of and public trust in these products and the industry to reduce inspection, as this bill proposes.

The difference in the frequency of inspection between USDA meat and poultry inspection and FDA's checks have been factors in keeping the two inspection programs separate. Just as this legislation has been proposed to allegedly reduce Government expenditures, so suggestions have been made in the past for reputed budgetary savings by merging meat, poultry and egg inspection into the Food and Drug Administration. A few years ago, for example, a Senate Government Operations Committee document strongly urged such action.

Consumer groups, the UFCW and others have consistently opposed such a merger because we believe that the meat, poultry and egg inspection programs are superior—particularly because of the differences in the frequency of inspection. If the legislation you are

considering were enacted and put into effect, that all important difference between the programs would be wiped out.

The major reason for not merging meat, poultry, and egg processing inspection into FDA would be gone. Processing could go into FDA. We could have periodic, desperate chases to take dangerous meat, poultry and egg products off supermarket and home shelves to reduce the number of Americans becoming sick.

You have heard horror stories about allegedly costly and unneeded inspections which are currently required because of reputedly outmoded laws. It is, therefore, important to understand what the situation concerning processing inspection is today.

An inspector does not watch every operation of every plant continuously. In large plants, inspectors roam the processing operations checking batches, requiring compliance with regulations, looking for problems. In smaller plants, the inspector simply visits several times a day. He or she is not there continuously. The inspector does move through the plant at least once a day on a random basis.

Manpower is generally used effectively. The patrol system assures that. If there is a problem about the use of inspectors in plants which simply put pepperoni on pizzas let us take care of those small and few situations. Let us not use a figurative atomic bomb to deal with a situation which a single rifle shot would remedy. Let us not open a Pandora's box with resultant disasters for the safety of consumers, for the public trust in the meat, poultry, and egg industries and for the effectiveness of the inspection system.

We appeal to you to reject S. 2348. We urge you not to permit the reduction of Federal inspection of meat, poultry and egg processing.

Senator ANDREWS. Thank you, Mr. Mayer, for what I expected to be, and what I find is a very challenging statement.

Ms. Foreman, as usual, you have done an excellent job in presenting your case. You were quite frank in pointing out that the bill, as introduced, lacks specificity that you thought we should have. You also pointed out that we ought to find ways to make it more cost effective.

This morning, Secretary McMillan, I understand, testified and stated, and I quote, that—

> I would like to emphasize at this point the proposal to give the Secretary discretion in determining the frequency and the extent of inspection would apply only to the inspection of processed meat and poultry products. It would not affect slaughter inspection. An inspector will still be required to be present at all slaughter operations and to inspect every livestock or poultry carcass.

Now, in your testimony, you indicated that you feel this may not be the case. Could you discuss that a little further and indicate what protection you feel could be put in the bill so that the slaughter inspection remains viable?

Ms. FOREMAN. Yes, sir. Thank you for the opportunity to do that.

If I can read you the first part of section 102, it says that: "For the purposes proposed hereinbefore set forth, the Secretary shall cause to be made by inspectors appointed for that purpose an examination and inspection of meat food products prepared for commerce in any slaughtering—canning, salting, packing, rendering, or

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similar establishment." Some meat is processed in establishments where slaughtering also takes place. But I think it is important for Congress to specify slaughter ends at *x* point, at the first time the meat begins to be cut up into parts might be one suggestion. I would defer to the experts on that. But I think it is absolutely imperative, if you are going to have two different levels of inspection, to be specific about where that continuous inspection ends and less continuous inspection begins.

It is okay to say "processing," but what is processing? I think the law ought to define what processing is. That has never been important before because there was only one level. I suspect that it may be a distinction that is a little difficult to draw, but that does not mean that people should run away from it.

Senator ANDREWS. It cannot or should not be done.

In your statement you also say that Congress should specify what minimum standards are for what constitutes an adequate and reliable product monitoring system.

Now, would you outline what minimum standards you feel are necessary, and how we could spell it out; how we could make this specific?

Ms. FOREMAN. I think that you might say, for example, as I pointed out in my statement, that the Secretary shall specify time and temperature controls. I do not believe the Secretary should have to say *x* is an appropriate time and temperature control. I think it is important for the law to say there has to be someone in charge of the inspection stamps. I think the law should be very specific about what the relationship is between the product, production manager and quality control manager.

Virtually all of the things I mentioned in my testimony are now part of the quality control regulations carried out by the Department. But that does not mean that at some future time those might not be changed. They might be completely done away with at some future time. And the law would allow the Secretary to do that.

What I would like the Congress to do is draw a happy medium between the law that I think is now too rigid and it leaves both the company and the Government too little flexibility and the proposal that is before you now, which grants total discretion.

I think Congress should give the Department some guidance. Certainly you give that guidance in a very specific fashion on a wide variety of other issues that are before this committee.

Senator ANDREWS. That is true. We have been chastized in the past for that. I share with you the feeling that it probably is necessary to get a little more specific—quite a bit more specific. But we can encompass some of those points that have been made into this law and have it accepted on all sides. I can understand your organization's concern, and I appreciate your suggestion that we should be more specific.

I also appreciate your candor in saying that the bill that we operate under now is too specific and does, in fact, need to be changed.

Ms. FOREMAN. That is my view.

Senator ANDREWS. Now, as you know, you and I have talked many times on the concern I have about the effects of rigid inspection requirements in small processing plants. I do not mean small

processing plants in large metropolitan areas, but I mean the country custom slaughter plant that retails over their own counter in a town of about 1,500 people. They slaughter maybe once a week and get a veterinarian to come out and inspect the meat. Whether it is necessary or not, I have always questioned because in the small towns that I know of, and I grew up in one, and I live in one, everybody in that town knows who drinks too much and who goes around with somebody they should not go around with, and who has dirty meat in their store. The consumer policing of that butcher or that establishment is far better than any regiment of Government inspectors could be.

What type of draftsmanship would you suggest we could put together that might address this concern and, in effect, exempt or change the rules so that we could retain this custom slaughtering place in a small town where they retail their products only in that town?

Now, I am not trying to create a loophole that you could drive a Mack truck through and have somebody slaughtering out there in Castleton, N. Dak., and selling their meat in the Minneapolis market. That is not at all what I had in mind. But, to sell on site the meat that they process is in the best interests, I think, of clean meat. It saves us from what has happened in some instances of a farmer going back and stringing the steer up behind the barn and doing a little custom slaughtering out in the open, which is not nearly as good as what we can do in one of these small plants.

Can we address that concern? And, if so, how?

Ms. FOREMAN. You and I have been through that question——

Senator ANDREWS. We sure have.

Ms. FOREMAN. So many times that it is painful. The minute that I heard that you were going to be in charge of this hearing, I realized that I was once again going to have to try to come up with an answer to that problem. And it is one that bothered me a lot because it is a very difficult problem to deal with.

I think that you possibly could devise an answer to it that where a plant could demonstrate that, in fact, it does do its business within a small radius. And I think that that would, even if the radius were small, have to exclude plants that sell meat across State lines, those that just happen to be near a State line so that a lot of their business was done across that line.

Senator ANDREWS. The thing that happens in some of these small towns, is that the meat that comes from the federally inspected plant is sent out to the local grocery store and is sometimes handled in a very unsanitary way. Therefore, even though it is federally inspected, it possibly is less wholesome than the meat that would come from the local processing plant.

Ms. FOREMAN. That is certainly possible. And I cannot think of any way. Drawing maximum standards is very hard, but drawing minimum standards into the law is not difficult.

Senator ANDREWS. The problem that we want to address is the problem of what has happened in rural America where we have seen custom processing plant after custom processing plant shut down. These are plants that slaughter three or four head a week, and they are pretty important to that community. They represent a fast and excellent meat supply for the area. They custom slaugh-

ter for the farmers themselves and they custom slaughter for their own counter. It provides a good service.

Ms. FOREMAN. That is why I think if they are, in fact, well known to the people in the community and trusted by the people in the community that being stamped as not inspected and having the sign that it is not inspected really would not affect the people who know the people who run that store and are totally confident.

Senator ANDREWS. As long as their product is sold onsite and in that small community.

Ms. FOREMAN. That is right. I think that you probably just have to limit that to stores that do under *x* number of dollars of business a year or can show that that business was done within a limited radius. I think you particularly would want to be very careful about making sure that that does not get too widespread.

Senator ANDREWS. I think that it would probably be an exemption that would say it would be a custom slaughtering plant in a town of less than 2,500 population, where all of the product from custom slaughtering is sold onsite, and where it is indicated by a sign to the consumer that this is locally slaughtered meat and not a Government-inspected product. I think all of those things could be met fairly well and would certainly take care of the problems that we have.

Arnold, you are, obviously, unalterably opposed to this bill. I may not be all that perceptive, but I think I read that between the lines.

Mr. MAYER. Right.

Senator ANDREWS. Do you feel that any changes need to be made in the law at this time?

Mr. MAYER. I think there are things that should be looked at, but not on the basis of this legislation. This legislation is aimed only at saving money on inspection. It is aimed at easing pressures from OMB and, frankly, that is not the proper approach.

Senator ANDREWS. Frankly, as one of the cosponsors, that was not my approach. I wanted to get some changes made in the basic law and I have visited with Carol many times on those changes. As far as putting anything in the hands of my longtime friend Mr. Stockman, that is the last thing that I would ever advocate anywhere.

Mr. MAYER. I think that is what the administration meant to do when it sent down the bill. And I think there are certain things that ought to be looked into in inspection and, while I do not agree with Ms. Foreman's way of fixing up this bill, I think she is absolutely right on how to approach the situation. Let us have some hearings, some real hearings into the whole inspection system. How it is operating. What is happening. What happens in the various aspects, such as residue. What is happening in slaughter. How do the kangaroo-type situations occur and remain undiscovered for months. Let us look at all those things and then perhaps it will become apparent that some type of amendments to meat inspection are necessary. But just sending down this bill to give the Secretary a blank check, which I think means give OMB a blank check, is putting the cart before the horse.

Senator ANDREWS. Mr. Leonard, in your statement you say that although the Department argues it proposes this legislation to reduce inspection costs, the true purpose is to tear down a funda-

mental safeguard of consumer protection that has existed for 80 years. Now, that is a pretty serious accusation. How do you back that up?

Mr. LEONARD. When you look at the amount of money that they are proposing to save, which is relatively minor, and then you look at the implications of the changes that would occur to public health, there really is not any other conclusion.

The Center for Disease Control, the CDC—they keep changing the name but they keep the same initials—they accumulate data on salmonella poisoning in the United States. They estimate that for every 1 case that is reported, there are 30 that go unreported. That we, as a Nation, suffer from an epidemic of salmonella poisoning that can only occur as a result of the food we eat. Most of that salmonella poisoning occurs now from meat and meat products.

We already have a system, and I would like to underscore what Arnold was saying, what we really need to do, rather than look at a piece of legislation like this, is to examine the conditions the meat inspection program now finds itself in, and look at the health implications for the whole country, and then determine what kind of changes need to be made in it.

If we accept what the Department has proposed, we will be tearing down a concept of public health protection that was created to pull this country out of a chaotic situation back in the early 1900's. And it would just be ridiculous to go back to that kind of situation, but that is where this will take us.

Senator ANDREWS. Carol, you have probably got more experience in the administrative operation of inspection programs than most anyone in the last decade, and the policies that you endorse have been sometimes controversial. That is because they are worthwhile. My grandmother had a plaque on the wall. She was a doctor before it was fashionable for women to be doctors. She graduated from medical school in about 1877. The plaque on the wall said, "To escape criticism, do nothing, say nothing and be nothing." I think you pretty well live up to that motto. So, while you are controversial, you are also effective. You come up with some excellent ideas. You certainly have a wealth of working knowledge of the programs.

From your experience, what specific changes can be made in these inspection programs to make them more efficient and less costly to the taxpayer?

Ms. FOREMAN. Before I address that, let me tell you that my mother used to have a plaque on the wall that said, "Behold the turtle, he makes progress by sticking his neck out."

Senator ANDREWS. We can be joint members of the Turtle Club.

Ms. FOREMAN. In my testimony I get into that just a little bit. It is one of the reasons I think it is worthwhile for the Congress to undertake an overall set of hearings on the inspection.

Quite frankly, Mr. Chairman, meat inspection has not benefited by Congressional oversight on any regular basis because, in the case of food stamps, for example, you used to have a 4-year authorization that is now an annual authorization, for all practical purposes.

Senator ANDREWS. It creates a heartburn on all sides.

Ms. FOREMAN. Yes, it does; and I would not advocate an annual authorization for meat inspection. On the other hand, really the last time there were detailed hearings held on meat and poultry inspection was 1967. It just does not happen often enough for Congress to be aware of what is going on and to keep the Department on its toes.

Senator ANDREWS. We ought to give the public a right to be heard to suggest the changes that have come about because of the evolution of the process.

Ms. FOREMAN. The greatest savings that I think are available from changes to be made in poultry inspection is poultry post mortem inspection that would switch from a bird-by-bird inspection to a flock-testing system. And my colleagues here at the table probably will not agree with me on this.

Senator ANDREWS. You are sticking your neck out. That is why I asked the question.

Mr. MAYER. We agree that changes could be made. We just disagree on what those are.

Ms. FOREMAN. A couple of years ago the Department, based on recommendations from GAO or from Booz-Allen and the staff, contracted with Tuskeegee Institute to undertake a study to see if it would be possible to do a poultry flock inspection that would make it possible, at least in some cases, to reduce the level of inspection intensity, and I just think that has to come. At 4 billion birds a year, I am sorry, but I cannot believe that we cannot find some better way than having an inspector lift and turn and touch and perform 23 different hand motions on every single one of some 4 billion birds.

Senator ANDREWS. I remember one day you came up and pointed out to me how you were going to do it by mirrors.

Ms. FOREMAN. We did that, and it saved some money. The Appropriations Committee is the one who came up with it.

Senator ANDREWS. Now Mr. Stockman does it by mirrors, if I recall.

Ms. FOREMAN. Our figures are generally better than his. There have been substantial savings made already, both to the industry and to the inspection force. And, incidentally, it was the increase of poultry post mortem slaughter, and the increase in demands that that made on the inspection staff, that initially required going over to so many patrol inspections in meat and poultry processing, because there are some limits on the number of people you can have in those jobs. And, since you have to have somebody in the slaughter operation, they switched off to a less continuous inspection in some processing. That and quality control, I think, are the big opportunities for savings, but I think the ones in poultry are substantially greater.

Senator ANDREWS. Do you support user fees for meat inspection?

Ms. FOREMAN. Well, to a certain extent, they still exist. I do not support them, but right now in meat and poultry inspection, if a plant requires overtime inspection, then the plant is required to pay the cost of inspection beyond a certain number of hours per day. And one of the penalties that I suggest is that when a plant violates quality control procedures that they have to pay the cost of

the intensified inspection that has been visited upon the plant until they get their act together.

Since quality control does provide substantial savings for a plant, one of the best ways to make sure that the plant then runs that quality control system effectively is to have a threat that they lose some of those savings by having to pay for the inspection costs. I think that would be a very effective deterrent. And, to that extent, that is when a plant makes a requirement of the inspection system that is above and beyond what is accepted, I think the user fee is appropriate. And, in fact, there is a precedent for it.

Mr. MAYER. Mr. Chairman?

Senator ANDREWS. Yes, sir.

Mr. MAYER. May I get into that?

Senator ANDREWS. You certainly can.

Mr. MAYER. That is a very important question you asked. My understanding is that the Department has told some companies that the danger, if this bill does not pass, is that the administration might come out for additional user fees.

I think it is important to realize what the problem is with user fees. It is not just a matter of somebody else paying for the program. It is also somebody else controlling inspection. If the industries paid for inspection, it would be only a matter of time before they controlled it no matter what the legislation says. And that is why my union and most consumer groups, if not all of them, oppose user fees in terms of inspection. Inspection is a consumer protective system and a consumer protection service. As a consumer protective service, and to keep it as a consumer protective service, the Federal Government ought to pay for and control it.

Senator ANDREWS. Well, Arnold, let me ask this of you: Would your group oppose the suggestion made a moment ago by Carol where, if a plant was goofing off, and you had to send in additional inspectors to straighten it out, that plant should then bear the cost of the additional inspectors, as sort of a fine. It would probably be an incentive to stay straight in the first place so you did not have to invite all the additional cost to clean up a mess that has gotten out of control?

Mr. MAYER. I do not know. I have problems with quality control. I think it places an awful lot of power in the hands of the company in what it does in a very, very competitive industry, where companies are forced at times to cut corners.

Senator ANDREWS. You still have a Federal inspector there. It is when they do not follow the directions.

Mr. MAYER. But you have less inspection than you have otherwise. After you get to that point, I probably would prefer civil penalties rather than user fees. I think you can probably do the same thing with penalties by an inspector, civil penalties, not criminal. The latter is an atomic bomb that rarely works.

Senator ANDREWS. You mentioned you want to do it with rifle shots.

Mr. MAYER. You have to fashion the penalties to what the problem is. And I would rather do it with civil penalties, if possible, rather than user fees because, again, it is only a matter of time before the industry would control inspection.

Senator ANDREWS. Well, Arnold, do you agree to the factors listed in the legislation for the Secretary to consider in determining the intensity of inspection are appropriate criteria?

Mr. MAYER. I do not think they are inappropriate, but, as we have all said, they are rather vague and they are inadequate.

Senator ANDREWS. Do you have a suggestion for other factors that the Secretary should consider?

Mr. MAYER. Yes. I think you need a lot more specificity, as you two have discussed. I think you need a lot more things in there. But, again, I think the present system of continuous inspection and patrol inspection that is used should not be done away with.

I think an inspector should go into the plant at least once a day.

Senator ANDREWS. Mr. Leonard, other witnesses have stated that an individual plant should have the option to accept or reject the various types of inspection. In your judgment, would such an arrangement be workable?

Mr. LEONARD. To have a plant decide what kind of inspection they are going to——

Senator ANDREWS. That is what they have said, should have the option to accept or reject the various types of inspection.

Mr. LEONARD. Absolutely not. If you are going to do that, you might as well do away with the inspection program. Again, the purpose of the legislation, as the courts have interpreted, is that it is to protect the consumer. And, in this responsibility, the Secretary has no discretion. So, therefore, you cannot subscribe that discretion to plant management.

Senator ANDREWS. Ms. Foreman, the voluntary quality control program was promulgated by USDA during your term as an Assistant Secretary there. Some contend that this program causes an excessive degree of Government involvement in the affairs of private business, such as meatpackers and processors.

What is your assessment, and what do you foresee as the future of TQC?

Ms. FOREMAN. Well, I think that whoever those people are they should sit down and talk to Arnold Mayer and Rod Leonard.

Senator ANDREWS. He would straighten them out in a hurry, would he not?

Ms. FOREMAN. The problem with meat inspection and processing now is that his other programs have gone away from command and control operations and toward more reliance on less arbitrary judgments on more technical information, on data that is kept on a daily basis. Meat and poultry has been allowed to do that, but not allowed to do it and not have the inspector in the plant every day. Therefore, there has been a limited impact.

I think that the plants, and I think the committee received testimony this morning from some plants that have instituted quality control programs, and they have found that they saved money. I think another value of it is that there is a certain level of bribery and extortion that goes on in meat processing and the meat slaughter business and poultry that might be reduced by fewer arbitrary judgments and more technical guidelines to rely on, and this program does provide that.

When we proposed these things, we had two underlying reasons: One was to try to modernize the system and save some money. The

other was to use some of those savings to improve the part of the program where we felt there were inadequacies, particularly in residue controls. I am concerned and distressed because now as the imperative to cut costs within the Department of Agriculture has come to be the only guideline which is considered in any decision-making, the Department has been forced to come to you with a piece of legislation that has dropped virtually all of the guidelines that the Department at an earlier time felt were necessary to make quality control work. And, in order to get the bill through, they are clearly prepared to accept further weakening amendments, as proposed by the industry.

I just do not think Congress ought to legislate under those conditions. And, once again, I think it is probably time for Congress to take a fairly detailed look at where meat inspection is going and have some full-fledged hearings on the possibilities that are inherent in flock inspection and quality control.

On the other hand——

Senator ANDREWS. In other words, you are suggesting that maybe as chairman of the Oversight and Investigation Subcommittee——

Ms. FOREMAN. That entered my mind.

Senator ANDREWS. I am going to have an interesting time early next year trying to assemble a group of data from which we begin to do it.

Ms. FOREMAN. I think that would make us all more comfortable about this legislation.

Senator ANDREWS. Arnold, what suggestions would you have to help make our inspection system more efficient, and thereby less costly?

Mr. MAYER. I think the inspection system right now works fairly well. I think the continuous inspection is not inefficient. I think, obviously, there are ways that you can save money, but there is no such thing as a free lunch.

Senator ANDREWS. I remember that quote from Earl Butz.

Mr. MAYER. I always quote prophets.

Senator ANDREWS. Score one.

Mr. MAYER. I think, for example, that the no hands inspection of poultry or flock inspection leads to certain qualms and certain fears. All of these would save money. They would be more efficient. But do you give something up in terms of consumer protection?

I think no matter what we do, I think it is important always to remember how competitive this industry is and the pressures on the industry to cut costs, to cut corners. The inspector acts, as I say in my testimony, not only as a policemen but also as somebody who enforces minimum standards. And that is something that is very important to remember.

I also would like to get to the point you asked Rod Leonard. You mentioned that someone had testified and asked that the plant management be able to choose the type of inspection. That is exactly the sort of thing that I am afraid of with user fees. The fact that it is being asked now with the Federal Government paying for inspection goes a step further; it is a bit of gall. But it is exactly the sort of thing that I think is likely to happen if user fees were used.

And then we would go to the next step: "I don't like this inspector; he's too tough on me, take him away, I'm paying for it."

Senator ANDREWS. Page 3 of your statement, Arnold, makes a point that under current law inspectors do not now watch every operation in every plant continuously. Since this is the case, the proposed legislation would not be as radical a departure from current practices as one might at first think.

Mr. MAYER. I might take it to the ultimate step though of the inspector rarely being there or never being there, or perhaps being there as in the case of Food and Drug. It inspects on a random basis once every 5 years.

Senator ANDREWS. You make that quantum jump and you describe a hypothetical extreme situation where inspection would be allowed to lapse because it is so expensive. How can this be avoided?

Mr. MAYER. Well, for one thing, and again, if you do go with this type of legislation, you set standards. You set standards of what sort of inspection the Secretary has to provide. The proposed legislation allows such an extreme situation. The Secretary can do anything he wants to. And, as I say in my testimony, I do not think it is unreasonable to think that the Secretary could be pressured in the present budget crunch on the deficit into going into nearly no processing inspection.

Senator ANDREWS. Would expanded use of total quality control programs provide new job opportunities for current workers, or would this type of specialization be provided by other employees?

Mr. MAYER. I do not know how the job situation would even out. You would lose inspectors. You would gain people in quality control. In terms of my union, that is probably a benefit because we do not organize inspectors; we do organize the plant force. But in terms of overall job numbers, I do not know which way it would come out. Probably it would come out even, and you would put additional costs on the company for what you would save the Federal Government.

Senator ANDREWS. Could not those quality control people under your union do a pretty good job of supplementing and augmenting the other inspectors?

Mr. MAYER. Obviously, anybody who is a member of our union does an excellent job.

Senator ANDREWS. John Rooney told me years ago, Arnold, never when I am on a subcommittee in this Congress, never ask a question that I do not know the answer to.

Ms. FOREMAN. And you knew the answer to that.

Senator ANDREWS. I suspected that you would have a quick answer for that one.

You have been most helpful as a panel and I certainly appreciate your taking your time to come and the testimony that you gave and the answers to the questions will be most helpful to the subcommittee in working out the details of this bill. And who knows, Carol, we may have to take a look at the Oversight and Investigation Subcommittee to find out all kinds of things.

Ms. FOREMAN. Perhaps you begin with another request to GAO to prepare some preliminary data on what has happened since their 1977 report.

Senator ANDREWS. Well, we just might be able to do that.

Thank you so much. It was good to see you.

Our next panel is made up of Lee Campbell, the president of the Poultry and Egg Institute of America; George Watts, president of the National Broiler Council; and Lew Walts, executive vice president, National Turkey Federation.

We are happy to have you here. I told the earlier panel we can assure you that your testimony will appear as though read in full and that will leave that much more time for questioning. I should never bring that up because that gives you the incentive to read it in its entirety.

Mr. Campbell, would you be willing to go ahead?

Mr. CAMPBELL. Yes.

STATEMENT OF LEE CAMPBELL, PRESIDENT, POULTRY AND EGG INSTITUTE OF AMERICA

Mr. CAMPBELL. I am president of the Poultry and Egg Institute, which is a national association representing those that process poultry and eggs. I am also testifying on behalf of the Southeastern Poultry and Egg Association, with more than 16,000 members in 13 Southern States.[1]

Our organizations generally support S. 2348. I think it is important, Mr. Chairman, to view these amendments in light of the situation that exists as far as consumer protection is concerned in our industry.

There is no other food item that receives the highly regulated, continuous inspection that is rendered for meat, poultry and eggs. Not one. All the rest of our food supply is subject to spot checks and these could be once a year or once every 2 years, whatever. But, even with the amendment proposed in this legislation, the meat, poultry and egg industry would still be the most inspected of all foods and thus we believe the consumer would continue to be assured that the products they buy are safe, wholesome and unadulterated.

The amendments would not change, as has been discussed here today, the current requirements for the continuous inspection of slaughter of poultry. Thus, birds would continue to be subjected to ante mortem and post mortem inspection. And no change is made under sections in the current law dealing with sanitation, facilities, practices, labeling, containers, standards and prohibited acts.

The plants processing poultry products beyond the slaughter stage would at all times be utilizing poultry that has already been inspected and found to be wholesome and unadulterated. Once that poultry has been inspected, under the continuous system, and found safe, one could logically believe, we contend, that further inspection could be accomplished under a system similar to that used by the Food and Drug on other foods, but it would be tougher than that.

The Egg Products Inspection Act, under this proposal, would be amended in two respects.

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[1] See p. 153 for the prepared statement of Mr. Campbell.

With the exception of egg breaking operations, which would continue to be continuously inspected, the Secretary would be able to determine the frequency and amount of inspection that would be done in an egg products plant. Here again, as with poultry slaughter inspection, the Government would have continuous control over the quality and the wholesomeness of the eggs that are broken. Thus, from that stage, the processor would be working with a wholesome product. Subsequent laboratory analysis and unannounced spot checks would keep the integrity of the program from being jeopardized.

The other amendment would permit the Secretary to check on the compliance of shell egg handlers at least once a year instead of at least once a quarter. And it seems to us that that control program would still give the assurance the consumer is getting clean sound shell eggs, as they do now. Why are we at this point?

When the poultry act was passed and amended, the whole area of further processing was not really considered. Largely poultry plants performed only slaughter operations. What has developed has been a highly sophisticated technology. Plants are utilizing improved methods of monitoring processing operations and product control. Competition makes it imperative that each company does a job of convincing consumers that its brand is safe, wholesome, and is a quality product.

Egg products plants have upgraded their equipment and operating procedures. And it has been indicated earlier here today that the record of egg products as it relates to food borne illnesses has been outstanding.

We agree that the time has come to do things differently as far as inspection is concerned. They do not require the same kind of oversight that was envisioned when the acts were passed. And this plus the fact that it costs money, money that could be saved by the taxpayer and by industry. And that has been discussed The industry especially would encounter savings because of less overtime.

We have a couple concerns, though, that I would like to discuss, and it bears a little on the discussion you had with Mr. Leonard, and that is, the concern in our industry that in the implementation, if it becomes law, the Department would utilize it to make mandatory what is currently a voluntary total quality control system, designed by the Department for the poultry products industry.

In other words, the Department would say to the industry that the only way discretionary inspection could be applied to a plant would be if that plant was under the Department's total quality control program. In effect, we contend that that makes total quality control mandatory—total quality control designed by the Department.

What is of even more concern is that we would be faced downstream with the prospect of the Department saying to poultry plant management, "Either you install our total quality control program or we will not provide inspection at all."

Our concern here does not extend to the egg products industry because, with practically every egg plant having egg breaking operations, there is essentially someone in the plant all the time from USDA.

The quality control program the Department designed has met with less than favorable acceptance by our industry. We believe it is unreasonable, has no justification on an economic basis, has too many unknowns, is costly to the processor, and, most of all, it allows the Department to be involved to an even greater depth than it is now.

What we would like to see is the proposal be amended to make it clear that if any plant does not wish to comply with the Department's criteria for receiving discretionary inspection, the plant may continue to receive inspection as now provided by the Department. The choice should be the plant's choice. And, regarding the colloquy with Mr. Leonard, it is not a matter of a plant deciding whether they want inspection or not, it is a question that if they do not want to go to the rather complicated Government intervention type of total quality control program, then they can keep things as they are now.

A good many of our plants have pretty scientifically high technology and quality control programs that are headed by people with Ph. D.'s in food technology as well as a whole variety of other sciences. And I think some of those are concerned when decisions will be made about those total quality control programs by inspectors who may be a GS–13.

Now, the other issue discussed is civil penalties. And we are concerned about that. It is not in the proposal nor do we think it should be. The Department has not indicated a need. Certainly the administrative sanctions available under the laws concerned provide an adequate enforcement mechanism. Civil penalties could mean increased judicial staff and increased legal counsel to handle the workload, and they tend to drag on. Food and Drug does not enforce with civil penalties, either. We think there is certainly all the authority that is necessary to stop a plant, or retain product or whatever that has a real economic impact on every single plant.

We endorse the legislation. The concern is the way it will be carried out in poultry plants. And we have discussed amending the proposal to protect the plant's right of choice. But, in the long run, the proposal, if properly administered, could be of benefit to Government, to industry, and to the taxpayer consumer.

Thank you for the opportunity to present our views.

Senator ANDREWS. Thank you very much.

Mr. Watts, president of the National Broiler Council.

Again, let me assure you that your total statement will appear as though given in its entirety. The fact the bells keep ringing means they are getting cranked up for a vote. The notes they have been handing me would indicate that I have to handle a piece of an appropriations bill on the floor when, and if I get to the floor, the next time I go to vote.

Mr. WATTS. Thank you, Mr. Chairman.

Senator ANDREWS. We live like in a school room, when they start ringing a bell to tell us it is time to pass to the next class or whatever.

STATEMENT OF GEORGE WATTS, PRESIDENT, NATIONAL BROILER COUNCIL

Mr. WATTS. Thank you, Mr Chairman. I have a very brief statement.[1]

I am, as you pointed out, representing the National Broiler Council, a trade association for the producers and processors of over 75 percent of the meat-type chicken produced in the United States.

We are very pleased to have this opportunity to present our views on the legislation, which we view as taking an important step toward aligning the meat and poultry inspection activities of the USDA with today's highly sophisticated processing techniques.

We are very supportive of the concepts embodied in this legislation and it is a move toward ending the requirement of continuous inspection in plants which process meat, poultry, and eggs. We applaud USDA for making a positiye effort to reduce what we consider to be unnecessary regulation and the high cost of inspection, while continuing to provide consumer safeguards for product wholesomeness. I do wish to emphasize, as others before me have, that we are talking about this bill applying only to processed meat and poultry products. It would have no effect on the slaughter operations conducted prior to post mortem inspection.

All U.S. poultry sold in interstate commerce and for export is subject to inspection by USDA prior to and at the point of slaughter. In fact, in broiler slaughter establishments, each and every chicken is examined by USDA inspectors. When the chicken is processed into chicken frankfurters, bologna, chicken patties, or other processed products, it must undergo further reinspection by USDA. Just to provide an example of this reinspection, a plant which receives cooked, frozen, cut-up poultry and adds that chicken to broth to make soup, must have this continuous inspection by USDA. The chicken purchased by the plant was inspected at slaughter and during packaging of the product; there is no further cooking of the chicken involved or the adding of spices or any other ingredients to the chicken itself. But the mere addition of chicken to the broth requires this onsite continuous reinspection by USDA.

Food and Drug, as has been pointed out, makes no continuous inspection of food processing facilities. Only those plants processing poultry and meat under USDA's jurisdiction are subject to this type of reinspection.

We believe that this continuous reinspection is no longer necessary, and it is an inefficient utilization of inspection resources.

The processing of poultry has become a highly sophisticated technology in utilizing improved methods of monitoring processing operations and product control. The reliance upon scientific monitoring and the data will provide more effective controls and safeguards than a visual examination by USDA inspectors.

In addition, I would point out that overtime charges which are the responsibility of processing establishments would be greatly reduced. According to USDA, processing inspectors in poultry, meat and egg establishments earned between $12 and $13 million in

[1] See p. 156 for the prepared statement of Mr. Watts.

overtime in 1981. Of course, those costs were charged back to the processing establishments.

This legislation gives the Secretary of Agriculture the authority to determine which processing plants will participate in the discretionary inspection program.

However, we believe that it would be most appropriate, in fact necessary, to provide safeguards in the language of the legislation to prevent the future imposition of mandatory total quality control programs on any establishment. We would, of course, be happy to work with the subcommittee in any way in developing appropriate legislative language to this effect.

In summary, the National Broiler Council supports the direction and concept of S. 2348, with the exception of the lack of safeguards against the possible imposition of mandatory total quality control programs. The bill, we think, is an excellent vehicle for improving USDA's processed products inspection system to allow more efficient utilization of inspection resources and providing increased consumer protection with reduced overtime charges for processing establishments.

I appreciate this opportunity to appear before you today.

Senator ANDREWS. Thank you for an excellent statement. We are glad to have you here.

Lew, it is good to see you again.

Mr. WALTS. Mr. Chairman, it is always good to see you.

Senator ANDREWS. He is representing the National Turkey Federation. We would be glad to have your statement. Again, let me assure you that it will appear in its entirety in the record.

STATEMENT OF LEW WALTS, EXECUTIVE VICE PRESIDENT, NATIONAL TURKEY FEDERATION

Mr. WALTS. Thank you, Mr. Chairman.

I anticipated that there would be a loss of time here, so I will attempt to summarize my summary, if that is all right with you in the interest of the benefit of the back of our respective lapse.[1]

The National Turkey Federation is the trade association representing the turkey growers and turkey processors in the United States. And certainly I want to state unequivocally that my members are dedicated to assuring the American public safe and wholesome turkey products. But, at the same time, our members object to unrealistic and unnecessary regulations which tend to increase costs without providing consumers and industry a corresponding benefit.

Now, it has been repeated here several times that this legislation specifically addresses further processing operations in poultry and meat plants. It does not address slaughtering operations. And, of course, this legislation will very immediately affect the segment of the turkey industry which processes federally inspected turkey meat into a wide variety of further processed turkey products. Items such as turkey franks, turkey bologna, turkey roasts and turkey ham. And the production of further processed products, Mr. Chairman, I have to assure you that these products made from

[1] See p. 158 for the prepared statement of Mr. Walts.

turkey meat is truly the real growth segment of the turkey industry today.

The proposed legislation recognizes the technological advances in the processing of poultry and meat and the lessened need for USDA's current continuous inspection program for these operations. The legislation also responds to the recommendations made by USDA by the General Accounting Office for moderation in the Department's inspection approach, its intensity and cost applicable to the further processing of poultry and meat. The present system now being applied by USDA is costly to the industry, to the Government and to the consumers without providing a corresponding safety or health bene[illegible]n relation to these costs.

Now, the National [illegible]key Federation does support the concepts of this legislation, but we do have some reservations. For example, section 102(2) allows the Secretary to consider the adequacy and reliability of a further processing establishment's monitoring system in determining the frequency and intensity of inspection.

The industry term for this term is "process quality control". The degree of process quality control will vary from plant to plant, depending primarily on the nature of the product being manufactured. But it is our very strong feeling, Mr. Chairman, that under no circumstances should this legislation authorize the Department to require a nonvoluntary total quality control program, as a prerequisite for obtaining discretionary inspection.

It is our opinion that the further processor must at all times have the option of deciding whether or not to seek discretionary inspection in relation to the degree of process quality control that is implemented.

The other point of our concern relates to the requirements for two inspection legends, as proposed in sections 103 and 105.

The current inspection legend for poultry: "Inspected for Wholesomeness" places the Department's seal upon the poultry product offered to consumers as a certification that it has been produced in conformance with all applicable laws and regulations.

We fail to see the need for the proposed alternative legend: "Prepared in a USDA Inspected Establ:ishment". This legend would be placed on the label of a further processed product produced in a facility under discretionary inspection.

It is our feeling that there is no rational basis for making distinctions in the legend system. We think this would be confusing to the consumer and, quite frankly, the discretionary system would be predicated on determination by the Secretary that there are no safety or health concerns which warrant the addition of another legend with regard to the inspection process.

So we strongly recommend that the current inspection legend be maintained.

Mr. Chairman, the bottom line is that the National Turkey Federation is in support of the basic concepts of this legislation. As a matter of fact, we applaud the Department for being so foresighted in the introduction of this bill. If properly implemented, this legislation will result in cost efficiencies to the Department and consumers alike. It will also result in reduced inspection costs to the industry, specifically in overtime costs and without compromising consumer protection.

Finally, the Department would be able to reallocate its inspection resources to those areas where there may be more of a concern for human safety and health.

Thank you very much.

Senator ANDREWS. Thank you very much for a good statement.

I understand that USDA's total quality control program has not been greatly accepted by the industry. What could be done to make this TQC more workable for the poultry industry?

Mr. WALTS. Well, when they proposed this legislation, they had something like 1,100 replies and only 10 could even be positively, or in any way be identified as supportive of it. I think the basic feeling on the part of our processors was that the Department was getting too much in depth into their records. And those records would be made available to the Department, and then be subject to release by the Freedom of Information Act. And there is a lot of proprietary information which, by its very nature, would be released to the Department.

I think the industry's idea was that that information could be looked at but not made available to the Department. That was one of the problems.

Then there are a raft of others. Suppose you get to a problem in your quality control, and it is 2 o'clock in the afternoon, who makes the decision about what you do about that product for the rest of the day or what has already been done that day. And I mentioned that in my discussion earlier that there was a question whether you have it made by a food inspector or have it made by the chief of quality control who may be a Ph. D. in food technology. I think they just felt that it was an unrealistic program, and it must be because you had very little acceptance. And, certainly in the poultry industry, I am not aware of any plants that are under TQC in poultry.

Senator ANDREWS. Could TQC be applied to the egg products processing industry?

Mr. WALTS. They do not really need that in egg products because you have got—there are quality control programs. It varies within the various plants, but because the Department would be continuing to inspect the egg breaking in every plant—virtually every plant has egg breaking—you would still have the presence of USDA every day on a continuous basis.

Senator ANDREWS. Well, USDA gives us the figures that overtime charges in certain plants with total quality control were reduced by 67 percent. Would not TQC have similar advantages in poultry processing, reduced overtime or other benefits?

Mr. WALTS. Yes; that is probably right. That has been a carrot that has been sort of held out but, in reality, as I understand it, even if you process product under a TQC program and then you packed up that night or did some extra operation to it, you still could not ship it out until the next morning when the inspector came back. You know there is not much freedom involved there so far as the plant is concerned.

Senator ANDREWS. Feel free to comment on it. Your silence ends up getting you affiliated, and that may not be all that bad, with the remarks made by the panel answering questions.

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Mr. WALTS. Mr. Chairman, my mother always instructed me not to interrupt my elders.

Senator ANDREWS. You are doing quite well. You can jaw it with each other after the meeting is over and decide who wins.

Why would a plant prefer to remain under continuous inspection rather than having a reduced regulatory presence, as this legislation would allow?

Mr. WALTS. I do not think, generally speaking, that a plant would prefer to remain under continuous inspection. I think it boils down to the question of what are the requirements for participating in discretionary inspection. If the requirements were such that it was an inducement for the plant to want to go in that direction, I think that you would find the vast majority of them wishing to participate.

Mr. CAMPBELL. Yes; I think if a plant has already got quality—and there are some pretty sophisticated quality control systems—it would seem strange to them, I am sure, to have to undertake a new system merely because USDA had devised that system, instead of having USDA come to them and say:"OK, we will look at your system and we know your record of compliance. We know the experience we have had with your plant, therefore, you are entitled to discretionary", I think that is a different approach than coming in and saying: "Hey, you know, use our system or else."

Mr. WALTS. I would concur with that, Mr. Chairman. The turkey people do not want the Department to come up with this position because, the fact, as indicated before, they have out there in these plants Ph. D's who are food technologists. And their concept might go somewhat adverse to maybe what USDA would think the whole situation would be. I think the problem here is to try to avoid a dogmatic approach by USDA that says: "Thou shalt do"; when your records indicated that what I am doing over here is producing the same results as what is indicated in "Thou shalt". In other words, what I am trying to say is give and take. And, of course, and as I indicated as far as the turkey industry is concerned, we produce a variety of further processed items. And some of them would require a higher density of TQC than others. For example, if you are making a boneless turkey roast, you may be interested in your moisture pickup, your net weight, not so much the formulation. If you are making a product like turkey ham that is produced under Government standards, then the depth of your TQC program is going to be much greater than it would be if you were manufacturing a relatively simple product.

Senator ANDREWS. Does USDA currently have adequate authority to recall a product that is not wholesome?

Mr. WALTS. Certainly. They have authority to withdraw inspection, recall, detain, seize, criminal penalty and withdrawal of inspection. And, quite frankly, we see no need, Mr. Chairman, for civil penalties on top of all these other procedures.

Mr. CAMPBELL. A question has been raised about whether they have direct authority to go out and say: "Thou shalt recall this product", but they have ways of doing it, either getting agreement with the plant or taking it to the press or whatever. There are ways they can get that product back.

Senator ANDREWS. Rapidly, without a lot of mish-mash?

Mr. CAMPBELL. In fact, the last case, Lew here is more familiar than I am with it, but the last case the product had already been recalled by the time the Department made the announcement.

Mr. WALTS. Sometimes it gets me, Mr. Chairman, when some of these people come up and say you are going to withdraw all this inspection and these people are going to cheat the consuming public. I don't buy that stuff. That is wrong. That philosophy is totally wrong. For example, all products that are going out in the marketplace today are carrying the name of that company.

Senator ANDREWS. They are risking their future.

Mr. WALTS. They are risking their future. And they are not going to be sliding around all these—making all these end runs. A lot of people think they might because their success is in providing that consumer with a product of consistent quality, because they cannot survive on a 1-day sale. They must have those repeat sales. And if that product goes downhill, then their acceptability and repeat sales are going to go downhill and the competition is going to flat force them out of the market.

Senator Melcher was sitting here this morning, Mr. Chairman, and I think he was sort of pooh poohing about how much savings the Department expects out of this discretionary inspection program. He started talking about one-tenth a cent per pound or something like that. The Department, as I recall, articulated a number something like $29.5 or $30 million over a period of time.

Now, that may not sound like a lot of money up here on the Hill but to me, as a taxpayer, it sounds like a lot of dough.

Senator ANDREWS. You add a few of those up and you get into real money.

Mr. WALTS. That is what I had hoped to tell the Senator. I used to live in Illinois, my greatest fan in the world was Senator Dirksen. I think he was singularly honored by his colleagues by naming that building across the street in his name. I remember the good Senator saying one time, "You talk about a billion here and a billion there and the first thing you know, you are talking about real money." Now, $30 million may not sound like a lot of money up here, but to the taxpayer it sounds like a lot of dough, and to me it is; and I am a taxpayer. Plus the fact, when you start—I am not going to tell you, Mr. Chairman, the cost efficiencies that might evolve as a result of discretionary inspection that our plants are going to gratuitously pass this on to the consumer immediately, if it is a saving of 1 penny or 2 cents, it is not going to happen at that time. But what is going to happen down the stream is once the marketing people, the sales people get out in the marketplace, then the consumer is going to feel the impact of the efficiency of the plant operation in lower costs because they are going to be out there competing against each other. That is the way I look at it.

Senator ANDREWS. That is a good point.

Mr. Campbell, in your statement, you point out that many people are calling for the imposition of civil penalties for certain violations. You talked about that a minute ago in our questions and answers. Those in favor of civil penalties indicate they would be more effective and less time consuming than the present system. Now it was just expressed by the panel that the last thing you want is civil penalties. How do you answer those people who say they

would be more effective and less time consuming than the present system, since you brought that up?

Mr. CAMPBELL. Well, I am not a lawyer, but——

Senator ANDREWS. Neither am I.

Mr. CAMPBELL [continuing]. But from what I have been led to believe, even civil penalties can drag on. You know, it has still got to go through the administrative law judge. It has still got to go through a certain procedure whereas, and the Department has not asked for this either, the Department has a variety of things available to it. One of the biggest hangups, the biggest hammer they have over our head is the fact they can withdraw inspection. You know, I do not think anybody realizes the economic clout that is.

Senator ANDREWS. They are out of business.

Mr. CAMPBELL. Yes, they are out of business. Today they are out of business. Or, if you get product coming through the plant and suddenly it is retained, a guy comes in even on this kind of inspection and they retain the product, you may have every bit of warehouse space and all the aisles in the plant filled up with product. That is a tremendous economic clout. And plus the fact that at times in the past, certainly, the Department has used publicity or whatever to draw attention to that plant, and that is another thing they cannot afford. When Lew talks about a few million dollars and the Senator talks about one-tenth of a pound—one-quarter of a cent a pound in our industry is big money. And if you have the threat of withdrawal or you have the threat of having products tied up for an extended period of time, to me, that is enough clout on the part of the Department without having to go through the civil penalties routine.

Mr. WATTS. Senator, if I could just add one other factor that I think has to be considered. If a plant meets the requirements to go under this discretionary inspection system, that plant obviously wanted to be under that system. It is important for them to remain under that system. And the Department certainly would have the discretion of putting them back under a regular inspection system. That in itself is a compliance tool.

Our opposition to civil penalties is across the board and not just with regard to this piece of legislation. We view civil penalties as allowing the regulator to be the prosecutor, judge, jury and all the way through. When we are operating under the other types of penalties under the act, we at least have the appeals procedures outside of the Department.

We have been very unhappy with the civil penalties used by OSHA and EPA, and I think most people across the country have probably expressed that.

Senator ANDREWS. Thank you very much, gentlemen. Your testimony will be most helpful as we consider the legislation.

We appreciate your taking the time to come.

The subcommittee stands adjourned.

[Whereupon, at 3:45 p.m., the subcommittee adjourned, subject to call of the Chair.]

APPENDIX

STATEMENT OF HON. WALTER D. HUDDLESTON, A U.S. SENATOR FROM KENTUCKY

I am pleased that we have this opportunity to review the Department of Agriculture's proposal relating to less-than-continuous inspection of meat and poultry products, and to receive testimony from the industry and consumers on the proposal.

The industry's performance record certainly warrants a review by this committee of the inspection laws. Meat and poultry processors have continued to upgrade the standards and quality of their products over the years.

I understand that production of processed meat and poultry products under Federal inspection reached about 105 billion pounds in 1981. The increased demand in processed meat and poultry products is evidence of consumer faith in these products. When purchasing processed meat and poultry products, consumers are confident that the products are wholesome and unadulterated. The industry has worked hard over the years to build and maintain this confidence, and I commend them for their efforts and innovations.

I realize that the growth in production of processed meat and poultry products has meant an increase in the cost to the Federal Government for inspection of establishments producing these products on a daily basis. Nonetheless, I feel we should move cautiously in making revisions to the present system. Several changes have been made by the Department in the last 2 years that affect the operations of the meat and poultry industry. I would like to know what effect, if any, these changes have had on the standards and quality of meat, poultry, and egg products before we amend the inspection laws.

STATEMENT OF HON. DAVID H. PRYOR, A U.S. SENATOR FROM ARKANSAS

I am pleased that the committee is holding a hearing on Senate bill 2348, The Meat, Poultry, and Egg Products Inspection Amendments of 1982 which allows the Secretary of Agriculture to allocate inspection resources and determine appropriate inspection procedures on a plant-by-plant basis. Consistent with cost-cutting efforts, the legislation could provide for 5-year savings of $42.5 million dollars.

I am cosponsor of the legislation because I believe current statutes should be reviewed and certain changes made to reflect the current state of processing technology.

At the same time, I want to make sure that American consumers continue to receive meat, poultry, and eggs that are safe and wholesome.

I believe that a reduction in regulatory burdens can be consistent with food safety.

I endorse the principle embodied in this legislative proposal and stand ready to help with any refinements necessary to assure that safety is assured and unnecessary burdens reduced.

STATEMENT OF C. W. McMILLAN, ASSISTANT SECRETARY, MARKETING AND INSPECTION SERVICES, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman, I am pleased to be here today to discuss S. 2348, a proposal to give the Secretary of Agriculture expanded discretion to determine the intensity of inspection provided to individual meat, poultry, and egg processing plants. The proposed changes in the Federal Meat Inspection Act (FMIA), Poultry Products Inspection Act (PPIA), and Egg Products Inspection Act (EPIA) would give the Secretary authority to adjust the staffing of inspection personnel in processing plants based on the nature and frequency of an establishment's processing operations, the adequacy and reliability of the establishment's product monitoring system, the establishment's history of compliance with inspection requirements, and other factors the Secretary deems appropriate. Under the law as it is now written, Federal inspection is normally provided on a daily basis in all processing establishments, regardless of these considerations. We in the Department believe that consumer protection would not be jeopardized by a change in staffing at certain processing operations and that we would be able to make better use of inspection resources. In addition, we believe that the number of inspections of certain shell-egg handlers can be reduced from four times to once a year without affecting the Nation's egg supply.

Because of differences in the inspection systems, I would like to address the proposal to amend the FMIA and PPIA separately from that to amend the EPIA. I will begin with the FMIA and PPIA.

The Department of Agriculture (USDA) has taken steps in the past to modify its inspection procedures to adjust to the changing character of the meat and poultry processing industry. We believe that the proposed change in the statutes will allow the Department to modify its inspection methods further to keep pace with technological changes in processing, while continuing to provide a high level of assurance that meat and poultry products are wholesome, unadulterated, and properly marked, labeled, and packaged. Before addressing the provisions of the legislative proposal, I will discuss how the current law is applied in the inspection of processed meat and poultry products and changes in the processing industry and inspection system that led to the proposal.

As you know, the passage of the Meat Inspection Act of 1906 made USDA responsible for the inspection of meat and meat products prepared for human consumption and intended for distribution in interstate and foreign commerce. The legislation was a response to the shocking conditions uncovered in slaughterhouses and meatpacking plants at the beginning of the century. The sale of meat from diseased animals, grossly insanitary practices in slaughtering and processing operations, and the use of a few dangerous preservatives were among the problems graphically portrayed in Upton Sinclair's novel, The Jungle.

The Jungle received national attention and led to an investigation of packinghouses. That investigation confirmed most of the conditions described in the novel. Before the end of the year, the Congress had passed the Meat Inspection Act of 1906 as an amendment to the 1906 Agriculture Appropriations Act. The following year, a minor amendment was incorporated into the 1906 Act, and the amended Act was passed as permanent legislation as the Meat Inspection Act of 1907.

The Act provided for ante-mortem and post-mortem inspection of all cattle, swine, sheep, and goats prepared for human consumption and for distribution in interstate and foreign commerce. It also mandated the inspection of the processing of meat and meat food

products. Under the Act, inspectors were to condemn and supervise the destruction of meat and meat food products manufactured for human food purposes which were "found unsound, unhealthful, and unwholesome, or which contain certain dyes, chemicals, preservatives or ingredients" that made such products "unhealthful, unwholesome, or unfit for human food." In addition, the Act authorized the Secretary of Agriculture to establish sanitation requirements for slaughter and processing facilities and to have inspectors conduct sanitation inspections of the facilities. The Act also provided that inspectors supervise the packaging of inspected and passed meat and meat food products and that no such products be offered for sale in interstate or foreign commerce under "any deceptive or false name." The Horse Meat Act, which was passed in 1919, extended the provisions of the Meat Inspection Act to horses.

The PPIA, enacted in 1957, requires, with certain exceptions, Federal inspection of all poultry and poultry products produced for human consumption for distribution in interstate and foreign commerce. Before the 1950's the poultry industry had operated largely on a local level, and it did not develop as an organized entity until after the Second World War. Although the Department had conducted an inspection program for poultry before 1957, participation in the program had been voluntary.

No substantial changes occurred in the meat inspection law until the passage of the Wholesome Meat Act in 1967. Similar legislation --the Wholesome Poultry Products Act--was passed for poultry in 1968. The Wholesome Meat Act updated and greatly strengthened the 1907 Meat Inspection Act, consolidating it into the FMIA.

Before the passage of the 1967 and 1968 Acts, the States could but were not required to conduct inspection programs for meat and poultry products prepared for human consumption and for distribution in intrastate commerce. The Acts require, with certain exceptions, that meat and poultry products prepared for human consumption--including those prepared for distribution in intrastate commerce--be inspected. They also require that State inspection programs be "at least equal to" the Federal system and give the Secretary authority to cooperate with State agencies to develop and administer effective State programs. If a State fails to develop and enforce effectively requirements "at least equal to" those imposed under the Acts, the Secretary must "designate" the State for Federal inspection.

In the early 1960's, the inspection service had difficulty protecting the integrity of product after it left slaughter and processing establishments and entered distribution channels. As a result, horsemeat was imported from Mexico and illegally labeled as beef in the United States, and meat from animals that had died other than by slaughter got into human food channels. One of the goals of the 1967 and 1968 legislation was to overcome weaknesses in the earlier laws to prevent the recurrence of such problems.

A major feature of the 1967 and 1968 Acts was the expansion of registration and recordkeeping requirements for the monitoring of industries closely related to meat and poultry production. Under the Acts, Federal and State authorities enforce registration and recordkeeping requirements over these "allied industries"--including wholesale distributors, warehousers, brokers, retailers, renderers, livestock dealers, pet food processors, and handlers of meat and poultry products not intended for human food. The Acts also

prohibited the distribution in commerce of meat and poultry products not intended for human food unless the products are denatured or otherwise identified as not intended for human consumption or are naturally inedible by humans. The FMIA also incorporated the inspection of horses and other equines in its provisions.

Today the Department's Food Safety and Inspection Service (FSIS) performs three basic types of meat and poultry inspection--ante-mortem and post-mortem slaughter inspection and processing inspection. The FMIA requires both anti-mortem and post-mortem slaughter inspection; the PPIA requires post-mortem inspection, but provides that ante-mortem inspection should be conducted when the Secretary deems it necessary. In ante-mortem inspection, cattle, sheep, swine, and other livestock slaughtered for distribution in commerce for human consumption must be inspected for any detectable disease or abnormality before entering the slaughterhouse. This examination is important because some diseases, such as rabies, are easily identifiable in a live animal but are difficult to detect after the animal has been slaughtered. In addition, since some diseases are highly contagious to humans, it is important that they be diagnosed before the animals enter the slaughterhouse and come into contact with food handlers. Finally, symptoms observed in ante-mortem inspection, when combined with post-mortem inspection, give a more complete picture of the animal's health. Ante-mortem inspection of poultry is less intensive, except when unusual flock conditions are found.

Following slaughter, each carcass and its viscera are examined by an inspector. Trimming of carcasses is permitted, but animals that cannot be salvaged because of adulteration, contamination, or disease must be condemned. FSIS is also responsible for monitoring the disposal of condemned livestock and poultry carcasses.

In addition to inspecting livestock and poultry for signs of possible disease before and after slaughter, FSIS conducts the National Residue Program as part of ante-mortem and post-mortem slaughter inspection. Under that program, the Agency tests for chemical and drug residues to prevent the marketing of meat and poultry products that are adulterated with illegal levels of residues.

I would like to emphasize at this point that the proposal to give the Secretary discretion in determining the frequency and extent of inspection would apply only to the inspection of processed meat and poultry products. It would not affect slaughter inspection. An inspector would still be required to be present during all slaughter operations and to inspect every livestock or poultry carcass.

Processing involves any activity beyond slaughter--including cutting, boning, grinding, canning, curing, smoking, salting, packing, refining, and rendering. Although the chilling and storage of whole carcasses traditionally have been considered slaughter operations, the FMIA and PPIA do not specify these procedures as part of post-mortem inspection. Therefore, at some point the Department may want to include the inspection of these procedures in the less-than-continuous program.

During processing operations, USDA inspectors check the condition and cleanliness of buildings and equipment, the wholesomeness of incoming raw materials, and the identification of all ingredients throughout production. They also check insecticides, chemical cleansers, equipment, packaging materials, and labels to see that they are among those USDA has approved for use. To determine

compliance with product standards, inspectors randomly observe batches being formulated and check weights and time and temperature records. Finally, they submit samples for laboratory analyses as a check on compliance with USDA standards for substances such as fat, water, nitrite, phosphate, cereal, and nonfat dry milk.

At the time of the passage of the 1906 Act, processing beyond slaughter tended to consist of relatively simple operations, such as cutting and boning of whole carcasses, the production of a few types of sausages and the curing and smoking of ham, bacon, and other meats. The inspection of processing operations tended to be viewed at the time as merely an extension of slaughter inspection, in which the product to be inspected moves past the inspector on a production line. So strong was this orientation toward slaughter inspection that the language in the Meat Inspection Act and the FMIA that required inspectors to "mark, stamp, tag, or label as 'Inspected and passed' all such (meat food) products" applied to both slaughter and processing inspection.

A narrow interpretation of the language could mean that a USDA inspector must personally and literally inspect every frankfurter, piece of luncheon meat, and pork chop before it could be considered "Inspected and passed" and that an inspector must personally and literally place every label, mark, stamp, or tag on each item. The Department has never interpreted the language so narrowly in the administration of the Act. To have done so would have created enormous costs without significantly increasing the effectiveness of inspection.

Given the abuses in the meatpacking industry at the time of the 1906 legislation, the Department decided that the Act necessitated, in general, the daily, continuous presence of Government inspectors in both processing and slaughter establishments. The Department's position on this intensive level of inspection is supported in the legislative history of the Meat Inspection Act and the FMIA, as well as by subsequent opinions of the Department's Office of the General Counsel over a number of administrations. Although the Department did consider proposing that the legislation be modernized when the Meat Inspection Act was amended in 1967, no change was made. Thus, in the inspection of processed meat products, USDA continues to operate under legislative language enacted more than 75 years ago.

Section 6 (b) of the PPIA gives the Secretary certain discretion in determining the level of inspection of processed poultry products. When the PPIA was enacted, however, continuous inspection of the processing of poultry products was considered necessary. Because of recent changes in the processing industry, we believe that less-than-continuous inspection is now a practical and effective approach to the inspection of both meat and poultry products. Thus, the legislative proposal incorporates the same language regarding the criteria for processing inspection in the PPIA and the FMIA.

Although USDA determined that the processing of meat and poultry products required continuous inspection, food products under the jurisidiction of the Food and Drug Administration (FDA) are inspected on a different basis. FDA, which is responsible for the inspection of foods other than those inspected by USDA, has developed an inspection plan for processing plants that emphasizes a broad public health approach. Under the FDA plan, risk assessment and plant compliance are used to determine the allocation of inspection resources. FDA gives high-risk products thorough coverage during initial

inspections, and it gives thorough inspection coverage in cases in which violations have been found, regardless of risk category. However, FDA inspects plants in those categories less frequently than USDA contemplates for the inspection of meat and poultry processing plants under the legislative proposal. Because of the nature of meat and poultry products, the Department would maintain a more frequent level of inspection than FDA finds necessary for food products under its jurisdiction.

As we noted, in the early part of the century most inspection was conducted at slaughtering rather than processing establishments. Over the years, and particularly since World War II, the meat and poultry industries began using an increasing part of the total meat and poultry supply in the production of complex processed products. From 1946 to 1976, total meat production doubled, but the production of processed meat products almost quadrupled. From 1976 to 1981, the production of processed meat and poultry products under Federal inspection increased from 81 to 106 billion pounds--or about 30 percent.

The expansion in the quantity and types of processed meat and poultry products reflects both a growth in the population and a revolution in the lifestyle and eating habits of the nation. Recent years have witnessed an increased demand for processed convenience foods served in the home, and a large part of the population regularly eats at fast-food restaurants supplied by the meat and poultry processing industry. Moreover, during the 1960's and 1970's, consumers became increasingly interested in a diversity of processed foods. Convenience and specialty foods--probably the fastest growing segments of the industry--are marketed to households where convenience, quality, and variety are highly valued. Industry now produces hundreds of different processed meat and poultry products that vary widely in complexity, from ground beef to beef stroganoff, enchiladas, and egg rolls.

Aware of consumer interests, processors have used modern advertising techniques and resources to promote their products, focusing on characteristics such as attractiveness and quality. Some advertising, such as that for products low in fat, calories, or sodium, appeals to specific groups. Thus, when consumers go to the grocery store, they expect a certain brand of hot dogs or frozen dinners to have a certain taste, aroma, and appearance, and they expect the quality to be consistent, package after package. If the salt or nutrient content of a product is given on the label, consumers expect every package to live up to the label claim; indeed, USDA labeling regulations require manufacturers to substantiate label claims. In addition, the fast-food industry was built on the concept of product uniformity.

During the rapid growth years of the industry, many processors tended to rely on USDA inspectors to control the quality of their products. In others words, inspectors became the eyes and ears of plant management and were depended on to intervene when production problems arose. With growing consumer interest in uniformity and consistency in processed products, however, some companies realized that to fulfill consumer expectations they would need more sophisticated procedures for controlling production than USDA inspectors provided. By the 1960's some meat and poultry processors were designing systems specifically for controlling the production process. These systems--generally called "process quality control"

--were designed to provide consistent and uniform products that were produced at predictable costs and that consistently met Government regulatory requirements.

Quality control systems establish well-defined criteria and procedures for the manufacturing process, for evaluating the products at various stages of production, for evaluating finished products, and for recording the data and information generated in a manner that details the entire production process. Today quality control is common to all industries, whether companies manufacture television sets or hot dogs.

Specifically, quality control is a method of controlling the quality of procesing within certain specifications. Quality control can be applied either to the entire production system (total quality control) or limited to a specific process or product (partial quality control). In every production process, certain kinds of variations occur. In the processing of meat and poultry products, factors such as protein, fat and moisture content, and texture, flavor, and color are controllable within certain limits, but differences do exist in the finished product. Under quality control, limits are established for each factor, and production is monitored to ensure that the product remains within the limits.

Quality control systems define certain key points in production for monitoring. Any variations at those points beyond established ranges, if not corrected, may result in a finished product that does not conform to predetermined requirements. The information obtained at these points allows the processor to make adjustments or corrections to the process as necessary, generally before the quality of output has been adversely affected. If adjustments are not made in time, the quality control system allows the processor to isolate the small portion that is affected before the entire lot is jeopardized.

Key points that are monitored may include raw materials, both when they arrive at the plant and before they are used, the temperature of cooking ovens or chambers, the percentages of ingredients used in a product, and the accuracy of the weight listed on the package. Plant employees make regular checks at each key point to ensure that the system is producing a product within the prescribed limits. To make these checks, they use various analytical tools, such as instruments for measuring the level of fat and protein. Monitoring equipment can span a broad range of sophistication--from simple digital temperature measuring devices to computers that take temperatures at programmed intervals and record the information for later use. Advanced quality control systems also use statistical sampling and laboratory analyses to measure production performance.

As a simple example, if a company wants to produce hamburger with no more than 30 percent fat, a target level is set at slightly less than 30 percent. (Under USDA standards of identity, federally inspected hamburger may contain no more than 30 percent fat.) The exact level of fat that the hamburger ultimately contains depends on how closely the processor can control the production process. To remain within the 30 percent limitation, one processor may have to set 27 percent fat as a target, while another may establish a target of 29 percent because of the differences in their abilities to control production.

In hamburger production, the key points are the fat content of the raw ingredients, the mixing of the product, and the fat content

of the finished product. When raw ingredients enter the receiving area, samples are analyzed for fat content. In some plants, employees may conduct this analysis using relatively simple equipment that gives immediate results. In other firms, they may collect random samples and submit them to a laboratory for analysis.

After analysis, the raw ingredients are sorted according to fat content and stored in bins. Next, they are blended to achieve the targeted fat level. Again, the method of blending may vary. In some systems the ingredients may be automatically dumped from the storage bins onto a conveyor belt. A computer system determines the amount dumped from each bin and may automatically trigger the dumping mechanism. In other systems, a plant employee may release the ingredients from the bins according to a predetermined formula.

After blending and grinding the raw ingredients, the plant analyzes the fat content of the batch and plots the results. By checking the results over a period of the production shift, adjustments in the formulation can be made if needed to ensure that the target level is being met. The records that have been maintained during production point the specific batches that may occasionally not be within specifications.

Companies have found that quality control systems provide a cost-effective and efficient means of producing a consistent product and ensuring compliance with regulatory requirements. In addition, quality control has provided industry with increased protection in the area of product liability. In fact, industry has compared quality control to "a processor's insurance policy." By minimizing production delays, reprocessing or relabeling of product, and product recalls or condemnations, quality control reduces production costs and increases efficiency.

USDA's Changing Role in the Inspection of Processed Meat and Poultry Products

The Department's inspection responsibilities have grown substantially in recent years as the meat and poultry processing industries have expanded to meet consumer demand. During the last decade, the number of federally inspected meat and poultry processing plants increased 60 percent, from about 4,300 in 1971 to about 6,800 in 1981. In the same period, the volume of federally inspected processed products increased 48 percent, reaching about 105 billion pounds for 1981. The total cost of processing inspection almost tripled, increasing from $28 million in 1971 to $76 million in 1981. In fiscal year 1981 processing inspection accounted for 26 percent of the total FSIS budget of $297 million.

One reason for the increasing number of processing plants under Federal inspection has been the number of small plants that have entered the Federal system through the designation of State inspection programs. Many States conduct meat and poultry inspection programs for products prepared for distribution in intrastate commerce. As noted earlier, the 1967 Wholesome Meat Act and the 1968 Wholesome Poultry Products Act, which amended the Meat Inspection Act and the PPIA, required, with certain exceptions, that all meat and poultry products prepared for human consumption be inspected, including those produced for distribution in intrastate commerce. The Acts also require that State inspection programs be "at least equal to" the Federal system. If a State fails to develop and enforce effectively requirements "at least equal to" those imposed

under the Acts, the Secretary of Agriculture must "designate" the State for Federal inspection.

Since the first State designation of 1970, the Federal Government has assumed responsibility for the inspection of meat products produced for intrastate commerce in 23 States and for poultry products in 27 States. Most designations have resulted from decisions of Governors or State legislatures to discontinue State inspection programs, almost universally for economic reasons. If a State ends its funding of inspection, USDA must assume responsibility for inspection of plants formerly under State inspection. The rate of designation has accelerated in the past few years, and many of the establishments that have come under Federal inspection as a result of designation have been small plants. The remaining State programs employ 2,200 inspectors in about 4,500 plants, almost all of which are small.

About 70 percent (4,900) of meat and poultry processing establishments under Federal inspection are small (producing less than 3 million pounds of product a year). The large number of such plants under inspection strains the use of resources because of the necessity of providing daily inspection to plants whose production or product complexity may not justify the assignment of a full-time inspector. To cope with the problem, USDA has established "patrol" inspection. Under the patrol system, inspectors do not spend a full day in an establishment but are responsible for several plants within a geographical area and visit each plant at least once a day. About 58 percent of processing inspectors are on patrol assignment, inspecting an average of five plants each. In all, about 90 percent of processing plants are inspected on a patrol basis.

Formerly, large establishments processed a variety of products within the same building. Inspectors were generally assigned to one specific operation in the complex, such as sausage making or the production of canned goods. Eventually, plants became smaller and increasingly specialized; however, since they tended to be located in the same area of a city, processing inspectors were able to walk between plants. The trend toward specialization has been accelerated in recent years--particularly with the proliferation in the variety of processed products. Processing operations have also become increasingly dispersed geographically, so that patrol inspectors are required to drive varying distances between assignments.

Patrol inspection and other management innovations have enabled USDA to restrain the growth in the number of processing inspectors to only 20 percent over the last decade--from about 1,900 in 1971 to 2,300 in 1981--despite the 60 percent increase in the number of federally inspected establishments. In many ways, however, patrol inspection is inefficient. Transportation costs are high, and large amounts of an inspector's time are devoted to nonproductive travel (estimates range from 15 to 20 percent). Although the growth in the number of processing inspectors has been curbed, overall personnel costs have escalated dramatically during the period because of inflation.

Recognizing these and other problems confronting the inspection program, the Department in 1976 commissioned the consulting firm of Booz, Allen, and Hamilton, Inc., to study the issues. The objective of the study was to explore alternative inspection systems that could increase program efficiency and eliminate unnecessary burdens to commerce while continuing to provide the same level of consumer protection. In June 1977 Booz, Allen, and Hamilton completed its

report, which was entitled "Study of the Federal Meat and Poultry Inspection System."

Generally, the report found meat and poultry inspection to be highly labor intensive because of the many activities required by the enabling legislation of the program. Today costs associated with providing inspectors in meat and poultry slaughter and processing plants account for nearly 90 percent of the total FSIS budget--a proportion that has remained relatively constant over the years.

The report concluded that State designations and inflation were the two factors that had the greatest impact on the rapid increase in inspection costs. In the area of processing inspection, the report recommended that the Department adopt a monitoring approach to inspection. Under this approach, inspectors would use processors' quality control records as part of an inspection technique. The monitoring by inspectors of quality control records would be combined with verification samples and plant visits to ensure compliance with Federal regulations. In essence, the study recommended that quality control programs be adopted throughout the processing industry and that industry assume the primary responsibility for providing evidence that it was meeting regulatory standards. This method of inspection would mean that USDA inspectors would no longer act as de facto quality control officers for companies, the report stated.

If the quality control method of inspection were adopted, the study estimated, USDA would achieve major savings through a reduction in the total number of inspectors. At the same time, the Department would gain increased flexibility in the use of its inspection resources and would be able to focus on problem areas. The report also predicted that the cost to industry of establishing quality control programs would be offset by reductions in product defects an production down-times and by the elimination of overtime costs for inspectors. (Establishments are required to reimburse USDA for inspector overtime.)

In December 1977 the General Accounting Office (GAO) issued a report entitled "A Better Way for the Department of Agriculture to Inspect Meat and Poultry Processing Plants" (CED-78-11). As had Booz, Allen, and Hamilton, GAO recommended that USDA inspectors monitor industry-operated comprehensive quality control systems by making periodic, unannounced visits, submitting samples of finished product for laboratory testing, and checking company records. In addition, GAO recommended that flexibility be built into the Department's monitoring program, so that the frequency of inspection could be tailored to individual plants.

In an April 1981 report, "The Department of Agriculture Should Have More Authority to Assess User Charges" (CED-81-49), GAO again endorsed its earlier proposal that USDA adopt a system of periodic, unannounced inspections coupled with inplant quality control programs. Moreover, GAO urged the Congress to amend the FMIA and PPIA to allows the Secretary this method of processing inspection. (The report also concluded that, because meat and poultry inspection "provides a broad public benefit," the use of appropriated funds is an "appropriate" way to finance the program.)

USDA has been aware of the changing character of the industry and the need for adapting inspection to industry trends. In the last several years the Department has taken steps to modernize meat and poultry processing inspection and hold down costs. For example, FSIS

has recently completed a field realignment plan that corrected wide variations in the workloads of field management. The Agency has also made changes in slaughter inspection as well as in other technical and managerial areas. However, in order to achieve further improvements and efficiencies in the inspection program without sacrificing effectiveness--particularly in slaughter inspection, the Department began to look to changes in processing inspection as a safe and appropriate way to meet future resource demands.

Since the 1960's the Department has recognized the value of encouraging industry to develop partial quality control programs over key production processes as a means of improving inspection. Under partial quality control, quality specifications or control measures are established for given procedures, and precise methodologies for implementing the program are defined. In the plant, specific employees are responsible for ensuring that the quality control procedures are followed. Currently, over 1,000 meat and poultry processing plants have instituted more than 2,300 partial quality control programs. Examples of these programs include time and temperature, net weight, nutritional labeling, and fat and added water controls.

Perhaps the most far-reaching response of USDA to the changing trends in meat and poultry processing has been the development and implementation of the voluntary Total Quality Control (TQC) program, which grew from the expanding partial quality control programs. As the Department sought ways to improve the efficiency and effectiveness of inspection, it began studying a total quality control approach to processing inspection. On August 15, 1980, the Department published regulations on voluntary total and partial quality control systems for meat and poultry processing plants (Federal Register, Vol. 45, No. 160, pp. 54310-54325).

In traditional inspection, USDA inspectors work largely through direct observation and collection of samples of finished product to determine compliance with the regulations. The emphasis is essentially on detection of noncompliance with USDA regulations. Little emphasis is on prevention. The Department adopted the TQC program because it recognized the value of an approach to inspection that emphasizes preventing noncompliance.

Under the TQC program, plant management develops a plan that establishes organized controls at each critical phase of product handling and processing and that provides for the generation of data at the control points. The Department evaluates the plan to assure that the system will consistently produce products in compliance with regulatory requirements. Once a plan is approved, USDA inspectors trained in TQC inspection monitor the data generated by the system. Inspectors also conduct their own independent observations and draw samples for verification testing in USDA laboratories.

Approved TQC plans must document proportions of ingredients used; mixing and blending procedures; curing, smoking, and cooking times and temperatures; and methods of verifying compliance and recording each procedure. Net weight and accuracy of labeling must be assured, and documentation must be provided for verification. TQC plans must also provide for receiving, storage, shipping, general sanitation, and employee training.

Before USDA approves a plan, the plant must also detail methods of identifying deficiencies and correcting procedures to help

prevent unacceptable product from reaching consumers. Plant management must agree that designated quality control personnel will have the authority to stop production or shipment of product in cases where other corrective measures have been ineffective. Management must also agree that the plant owner, operator, or designated personnel will be available for consultation regarding the plant's quality control system when USDA personnel find such consultation necessary.

Although the TQC program is still relatively new--as of the end of June, 70 plants had been approved for participation--we believe that the program is proving itself. Our experience with TQC has shown us that it is not always necessary for Government to stand over industry's shoulder, pointing out every deficiency and, in effect, acting as industry's quality control system. Industry, for its part, has proved that it can and will assume its share of responsibility for producing products that are safe, wholesome and in compliance with regulatory requirements. By taking advantage of the technology developed by industry, Government in turn is able to improve the efficiency of inspection without any loss in effectiveness. Before we can gain the full benefit of product monitoring systems, we need additional flexibility in the allocation of meat and poultry products inspection resources. We believe that the legislative proposal before you today would give us that flexibility.

The Proposal to Amend the FMIA and PPIA

Under the legislataive proposal, the frequency of visits by inspectors and the specifics of inspection would be determined for each individual plant based on:

- the nature and frequency of the establishment's processing operations;
- the adequacy and reliability of an establishment's product monitoring system;
- the establishment's history of compliance with inspection requirements; and
- other such factors as the Secretary may deem appropriate.

The legislation would also change the wording of the mark of inspection on processed products from "Inspected and passed" to "Prepared in a USDA-inspected establishment."

If the proposed legislation were enacted, inspectors would continue to sample products for laboratory testing, check to see that facilities meet sanitation requirements, and monitor processing procedures. The difference is that the legislation would give the Department the authority to determine the nature and frequency of inspection at each processing establishment. The Department would no longer arbitrarily be locked into providing continuous inspection to processing plants, as it is today. In those cases in which plant management has demonstrated that it is both willing and able to assume a greater share of responsibility for product compliance, it is not necessary for the Department to inspect the plants on a daily basis. The legislation would enable the Department to develop a more rational system of inspection than is now possible and to tailor that system to actual inspection needs.

With regard to the mark of inspection, the legend now in use certifies that a product has been produced in conformance with all applicable meat and poultry inspection laws and regulations. As discussed earlier, the adoption by industry of quality control

systems and the sheer volume of processed products produced in recent years has shifted the focus of meat and poultry inspection away from the product itself and to the process by which the product was produced. Thus, even under the current provisions of the law regarding continuous inspection, the proposed change in the legend might be more appropriate than the "Inspected and passed" legend. However, we recognize that changing the inspection legend may result in unnecessary confusion to the public. If the Congress would choose to make no changes in this area, that would be acceptable to USDA.

The criteria established in the bill would allow the Department to use a series of uniform, logical steps to determine, on an individual plant basis, whether anything less than continuous inspection would be acceptable. The criteria would serve as a tool to measure a plant's ability and dedication to monitoring its own production processes and its willingness to ensure that only products that meet USDA standards are offered to the public. Specific requirements surrounding these criteria would be spelled out during rulemaking should this legislation be enacted.

The first criterion addresses the potential risk to the public health and the potential risk of economic fraud of each processing operation. It takes into account factors such as the complexity of the operation and the type of product produced. For example, a boning operation is a relatively low-risk process because boning is simple procedure in which no further processing is done and nothing a is added to the meat. Thus, there is minimal opportunity for contamination, and product wholesomeness is easily maintained.

The production of margarine is another example of a low-risk processing operation. On the other hand, precooked meats that are eaten with little or no further heating (such as precooked roast beef) have a history of involvement in food-borne illnesses and are relatively high in risk. Canning, of course, is an extremely high-risk operation because of the possibility of botulism; for that reason, plant management itself tightly controls the canning process. The processing of cured hams is an example of an operation that may present a high risk of economic fraud. USDA standards permit water to be added to certain types of hams during the curing process. If a processor exceeds established limits, the violation constitutes economic fraud.

The second criterion is the adequacy and reliability of an establishment's product monitoring system. We are aware that concern has been expressed that small plants would suffer under the less-than-continuous inspection proposal because they would not have the resources to implement the necessary quality control systems and thereby gain the benefits of a reduced regulatory burden. From our experience, we have found that plants of every size and complexity can adopt quality control systems without undue expense or burdensom technical requirements. Sixty of the 68 plants in the TQC program to date for which we have production data are small to mid-size establishments that produced 100 million pounds of products or less in fiscal year 1981. Of those 60 plants, 14 produced between 3 and 10 million pounds of product, 7 produced between 1 and 3 million pounds of product, and 11 produced under 1 million pounds of product. Quality control systems do not require highly trained technicians or expensive laboratories. Measurements can be made by regular plant employees. Inexpensive analytical equipment is available, and under the TQC program FSIS provides technical assistance, including a

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guidebook developed specifically to meet the needs of small plants.

It should be emphasized that the proposed legislation places no new requirements on the regulated industry. It does not impose mandatory quality control systems, as some industry representatives have charged. Rather, the legislation is limited to giving the Secretary increased flexibility in using inspection resources, based on sound criteria. While it is true that the bill would permit the regulatory burden to be eased in plants operating good quality control sytems, the decision to implement such systems remains totally with the industry. Moreover, if the Secretary is permitted to determine the frequency of inspection for plants which operate good quality control systems, there would be more time to spend at plants which need more intensive inspection.

The availability of a quality control system constitutes only one of the factors that would be used to determine eligibility for less-than-continuous inspection. As required under the bill, the nature and frequency of an establishment's processing operations and the establishment's compliance history would also be important considerations in determining the frequency of inspection. Finally, management's attitude toward and ability to deal with sanitation and other product safety requirements would be considered.

On the question of compliance history, many companies have demonstrated over a long period of time that they can and will assume responsibility for producing products in compliance with the inspection laws and regulations. We believe that we can be assured of a high degree of compliance in their products by periodically reviewing their product monitoring records and taking samples for verification testing. On the other hand, some companies have a known background of noncompliance. Unless such firms can establish that they are able and willing to produce products in compliance with the inspection laws and regulations, they would not be considered for less-than-continuous inspection. We would also probably need to inspect companies that have no track records more frequently than those with good compliance histories until the firms are able to demonstrate a sense of responsibility and an ability to comply with inspection requirements.

The fourth criterion was designed to give the Secretary authority to adjust the less-than-continuous inspection program to respond to unforeseen circumstances. We recognize that no inspection program can be absolutely perfect and that some persons may try to take advantage of any system of inspection, whether it be the current inspection system or the proposed less-than-continuous inspection program. Thus, the fourth criterion would allow the Department to maintain a sound inspection system for processed meat and poultry products as changes take place in the industry.

Under the less-than-continuous program, inspectors would make periodic, unannounced visits to establishments to ensure that the plant's quality control system is being used properly and that products are wholesome, unadulterated, and properly branded. The frequency of these visits would be closely related to the nature of a particular firm's product and the compliance history of the firm. The lower the product risks and the better the compliance history, the fewer visits by USDA.

As part of the monitoring approach, inspectors would take samples, independent from the establishment's sampling, at key production points. The frequency and extent of sampling would be based on statistically sound sampling methods. These comparative samples would be analyzed by FSIS laboratories and verified against quality control records in areas such as added water, fat content, and microbial levels. Inspectors would also check quality control and other records for compliance and for potential problems. As a supplement to monitoring the quality control systems and records maintained by establishments, inspectors would continue to make visual inspections to verify that sanitation standards were being met and quality control programs were functioning adequately.

Costs and Benefits of the Proposal to Consumers, Industry, and Government

Because quality control inspection is both more efficient and more effective than traditional inspection, consumer protection would be maintained under a less-than-continuous system of inspection. In fact, consumers could have increased confidence in inspection, since more objective data is used in monitoring adherence to regulatory requirements under quality control inspection than under traditional procedures. In addition, the requirement that we have an inspector in a plant every day regardless of the plant's performance or product detracts from the time inspectors are able to spend in operations that require more attention than others; less-than-continuous inspection would allow us to focus inspection resources on such areas.

Although conversion to a less-than-continuous system of inspection may produce some costs to industry, the benefits would far outweigh those costs. For example, industry would save on overtime costs for inspectors. In fiscal year 1981, total industry costs associated with overtime for processing inspection were between $12 and $13 million, based on an hourly rate of $16.76. That figure is likely to increase in 1982, since the hourly rate has been raised to $18.12. In contrast, overtime costs have decreased for plants under the TQC program. Analysis of data from 35 such establishments has shown that their overtime charges have been reduced 67 percent. We would expect that industry's savings in overtime charges would be even greater under less-than-continuous inspection.

Probably more important than savings in overtime charges are the savings that would accrue to industry from the voluntary introduction of quality control systems. As we detailed earlier, quality control reduces the risks of product recalls, reduces the likelihood of production delays and the necessity for reworking or relabeling large volumes of product, decreases the likelihood of product condemnation, provides protection in the area of product liability, and enables industry to control factors--such as net weight--that can be crucial to profit margins. After joining the voluntary TQC inspection program, one company estimated that the firm had saved $2,500 a month because it had tightened net weight controls and reduced excess weight in its finished containers. As increasing numbers of companies introduce product monitoring systems to be considered for less-than-continuous inspection, we would expect such gains to continue.

A recent survey of nine establishments operating under the Department's TQC program showed that the initial costs of

implementing the systems need not be great. The average cost for the time management spent writing a TQC plan and obtaining USDA approval was slightly less than $3,000. The range for three large plants (producing over 100 million pounds of product a year) was $700 to slightly over $5,000; the cost to two medium-sized plants (producing between 3 million and 100 million pounds a year) was $5,000 and $8,000; and the range for four small plants (producing less than 3 million pounds a year) was $360 to $2,000. Only three of the nine plants needed to purchase additional equipment to operate under the TQC inspection program; the average cost of equipment for the three plants was $1,600. Miscellaneous one-time costs of implementation were negligible. We present these results only as examples of industry experiences to date. Although the sample was chosen to reflect the range of plants in the TQC program, we do not wish to imply that these costs are necessarily representative or are predictions of costs that plants will incur in the future.

The study also indicated that TQC can entail some continuing costs. Of the nine plants surveyed, two large plants hired two full-time employees each, and two small plants hired one part-time employee each. In addition, one small establishment found it necessary to pay an additional $6,000 per year in wages to existing personnel. Four of the nine establishments, however, incurred no additional personnel costs under TQC. In six of the nine establishments, management spends an average of 1-1/2 person hours per day monitoring TQC records; the remaining three plants require no additional management time for that purpose. Two small plants also incurred an average of $1,200 per year in laboratory costs.

On the other side of the ledger, the average saving in inspection overtime charges was about $8,300 a year. Individual plant savings ranged from about $150 to $30,000 a year. In addition, most plants reported a significant increase in efficiency and productivity. For example, a vice president of a large West Coast plant said that before his company joined the TQC program plant employees had tended to pack over the labeled weight. Because TQC allows greater efficiency in net weight, he said that the plant had already seen a return of 10 to 20 times over the cost of the TQC system. A small Midwestern plant also reported a 12 percent increase in productivity and an 8 percent decrease in overfilling because of improved training in weighing and measuring.

Plant managers also cited benefits in product marketing. Because of improved product quality, uniformity and consistency, they reported that customer complaints and returns of product had decreased. A few plant managers also said that the shelf life of their products has been increased because of controls they had instituted at certain key production points. In all, the plants saw participation in the TQC program as an important marketing tool; one large processor said that "the response to our company's going on TQC was overwhelmming. It solidified the trust we had with our customers." Finally, a number of plants said that they felt they had better relations with USDA because the TQC program had clearly defined the responsibilities of the plant and USDA and had decreased variations in inspection. As one processor said, the TQC program "took out a lot of the gray areas in the USDA-plant relationship. We wrote the TQC book, and we know exactly what we're responsible for."

On the question of benefits to Government, the Department has estimated that implementation of the less-than-continuous inspection proposal would save $2 million in fiscal year 1983; that saving is reflected in the Administration's budget request of $319.9 million for FSIS. In fiscal year 1984 less-than-continuous inspection is expected to save $6.9 million, and in fiscal year 1989 the Agency is expected to save up to $26 million. In all, enactment of the legislative proposal would save $104.7 million over the next 7 years. It is also estimated that under less-than-continuous inspection the number of processing inspectors would decrease from 2,215 in fiscal year 1982 to 1,077 in fiscal year 1989. These savings and workforce projections are based on the assumption of a 5.5 percent rate of attrition among processing inspectors, and we anticipate that the change in inspection would be accomplished through this normal attrition in the workforce.

As noted earlier, less-than-continuous inspection would allow FSIS to focus inspection on processing operations that require more attention than others. More importantly, we are confident that less-than-continuous inspection would not result in any loss in the effectiveness of processing inspection. Thus, adoption of the legislative proposal would enable the Department to use inspection resources more efficiently and more effectively than is now possible. Although implementation of the less-than-continuous inspection program might create some short term costs for FSIS, we would expect those costs to be minimal and would be outweighed by other cost reductions associated with the proposal. In fact, most of the costs associated with the proposal--such as the costs of training inspectors in quality control inspection and providing technical assistance to plants--would be incurred even if the proposal were not enacted because they are also associated with the TQC program. Thus, we expect net savings to result from enactment of this legislation.

USDA's Current Enforcement Powers under the FMIA and PPIA

The FMIA and PPIA and their implementing regulations give the Department various sanctions that it may apply to prevent adulterated and misbranded meat and poultry products from being distributed in commerce. We believe that those sanctions, which have served the inspection program well in the past, will continue to provide sufficient enforcement authority under less-than-continuous inspection. Some parties--including GAO and Booz, Allen, and Hamilton--have suggested that civil penalties be adopted under a less-than-continuous inspection program. Although we agree with their suggestions in many areas, we do not believe that civil penalties would be necessary under the program.

The less-than-continuous inspection proposal was designed to enable us to allocate inspection resources more efficiently and effectively than is now possible. If we believed that the proposal would create gaps in the inspection program and greater opportunities for cheating, we would support the concept of civil penalties. However, our experience has shown that the effectiveness of inspection depends less on the number of hours an inspector spends in an establishment than on the commitment and ability of the firm to produce safe, wholesome, and properly labeled product. Under the proposal, inspectors would be spending more time where inspection violations are likely to occur and less time in establishments with demonstrated ability and willingness to comply fully with regulatory

requirements. In addition, the proposed legislation gives the Secretary the option of increasing inspection coverage of any establishment in the less-than-continuous inspection program whenever necessary.

Under the current authority of the Department, USDA inspectors and other officials impose certain immediate sanctions when adulterated and misbranded meat or poultry products are found in official establishments. These sanctions would be retained under the legislative proposal, and, as noted, inspectors would be able to concentrate their efforts on areas where problems are likely to arise.

The first inplant sanction available to inspectors is the retention of adulterated or misbranded product until the adulteration or misbranding is corrected. If the adulteration cannot be corrected, inspectors have the authority to condemn the product for human consumption. Further, when equipment or areas of an establishment are found unacceptable because of improper sanitation or other deficiencies, the inspector may reject the equipment or area for use until it is made acceptable. This action amounts to stopping operations until USDA standards are met.

In addition to these immediate inplant sanctions, the Department may remove inspection service from any establishment that fails to destroy condemned carcasses or condemned meat and poultry products or that forcibly assaults, intimidates, or interferes with inspectors. It may also refuse to provide inspection to or may withdraw inspection from any establishment when the firm or any person responsibly connected with the firm is determined to be unfit because of certain types of convictions. Since plants cannot distribute their products in commerce without inspection, the penalty of withdrawing inspection or refusing to provide inspection is generally applied only in serious circumstances.

The Compliance Division of the inspection program was established in 1964 to deter and detect violations of the meat and poultry products inspection laws and regulations. The program supplements inplant inspection by monitoring meat and poultry products throughout channels of distribution. In its work, the Compliance Division checks all product handling points, including locations where product is collected, packaged, and stored. The Compliance Division also monitors handlers of uninspected or inedible meat and poultry products to prevent these products from being diverted into human food channels. Industries allied to the production of meat and poultry products, such as wholesale distributors and retailers, are subject to intermittent, unannounced reviews.

Today, a network of about 60 FSIS compliance officers monitor allied industries to ensure that meat and poultry products intended for human consumption are safe, wholesome, and accurately labeled. Compliance officers--who are chosen from lists of highly qualified food inspectors with demonstrated ability and widely varied experience--explain inspection and other requirements to industry, review records, and maintain a systematic surveillance to deter or detect adulterated, misbranded, or otherwise unsuitable meat and poultry products intended for human consumption. They also screen shipments of meat products intended for animal food/feed to ensure that the products have been adequately identified for that purpose. In addition, the Compliance Division maintains cooperative agreements with 24 States that conduct inspection programs and works with compliance officials in those States.

A broad range of product control mechanisms and sanctions--detentions, seizures, and voluntary recalls of product and letters of warning, injunctions, prosecutions, and withdrawals of inspection--provides the Compliance Division and the Department with strong tools for the control of adulterated or mislabeled product in distribution channels and for the deterrence and detection of violations. Violations can vary widely in seriousness and scope. For example, they can range from minor, technical breaches of the regulations to violations that may represent a hazard to public health or that may constitute economic fraud. In addition, the amount of product involved in a violation may range from a few pounds to millions of pounds, and a violation may have occurred because of ignorance of the regulations, a mistake or oversight, or willful disregard of the laws and regulations. We believe that the sanctions available to the Department are both strong and flexible enough to enable it to deal effectively with the spectrum of offenses that may occur under the current system or under the proposed system of inspection.

Over the years the Department has applied these tools vigorously and consistently, and it will continue to do so under a system of less-than-continuous inspection. From 1971 through 1981, the Compliance Division conducted about 438,000 reviews of allied industries, with an average of about 40,000 reviews per year. During the same 11-year period, in a total of 8,600 cases, it detained over 126 million pounds of product--an average of 781 cases and 11.4 million pounds of product each year. Most of this product was either voluntarily brought into compliance or voluntarily destroyed for human food purposes. However, from 1971 through 1981 the Department found it necessary to obtain court-ordered seizures in a total of 59 cases involving 763,000 pounds of product--an average of 5 seizures, which together involved more than 69,000 pounds of product each year. In addition, during the same period, there was a total of 57 voluntary recalls of product, involving almost 26 million pounds of product--for an average of 2.3 million pounds of product involved in about 5 recalls each year.

From 1971 through 1981, the Compliance Division also issued 9,272 letters of warning to companies for minor violations--an average of 843 each year. Compliance refers serious cases to the Department's Office of General Counsel (OGC) for legal action. OGC, in turn, refers cases to the Justice Department for review and action. From 1971 through 1980, 605 cases--about 60 cases a year --were referred to the Justice Department. During the same period, Justice prosecuted 236 cases, or about 24 a year.

Of 130 cases prosecuted from December 1977 through February 1982, 45 involved federally inspected establishments. In 64 of the 130 cases, fines of up to $500 were imposed. Thirteen of the 130 cases resulted in fines ranging from over $500 to $1,000. Fines in another 21 cases ranged from over $1,000 to $5,000. In another 19 cases penalties ranged from over $5,000 up to $15,000.

Twenty-four of the cases in which fines were imposed also resulted in probation or prison sentences. No fines were levied in 13 of the 130 cases; however, these cases did result in the imposition of probationary periods ranging from 6 months to 5 years and of prison sentences of up to 3 years.

Examples of violations prosecuted are selling and transporting nonfederally inspected meat in interstate commerce; preparing,

transporting, and selling adulterated and misbranded meat; falsifying official documents; the unauthorized use of USDA brands; the use of counterfeit brands; substituting meat byproducts or nonmeat fillers in processed meats; slaughtering and preparing diseased animals for human consumption without complying with the FMIA; and knowingly distributing meat products after adding an unauthorized chemical agent.

Some cases referred to the Justice Department involved mitigating circumstances and were sent to Justice for review, with the recommendation that a letter of warning be issued. In some instances, USDA recommends that a court-ordered injunction be sought. Injunctions represent a middle ground between warning letters and prosecution. Cases that would generally be recommended for an injunction include continuing violations by retail stores of the terms of their exemption from inspection under the FMIA and PPIA and multiple infractions by a firm or individual over a period of time that are individually minor in nature but that together indicate a continuing disregard for certain provisions of the laws or regulations. USDA first began seeking court-ordered injunctions for violations of the meat and poultry products inspection laws in 1979. From 1979 through January 1982, 20 such injunctions were issued.

In 1974 the Department first began making use of its administrative authority to formally withdraw inspection from establishments considered unfit because of certain types of criminal convictions. Since that time, 55 withdrawal actions have been initiated on that basis. In addition, inspection was formally withdrawn in two cases because of insanitary conditions, and in another two cases for assault on inspection personnel.

Detecting and documenting violations of the inspection laws and initiating appropriate sanctions are important functions of the FSIS Compliance Division. The system was designed primarily to insure the integrity of the inspection system by continuing surveillance throughout distribution channels to deter violations and to serve as a secondary line of protection in the inspection system. In a system of less-than-continuous inspection, the Compliance Division would continue to provide a systematic monitoring of meat and poultry products prepared at processing establishments, and its activities would be closely coordinated with inplant inspection.

The Review and Evaluation Staff of FSIS was established to provide the Administrator of the Agency an overview of the effectiveness of the meat and poultry inspection program. This staff makes onsite reviews at federally inspected meat and poultry plants--including processing plants--throughout the country. The results of the reviews are summarized and analyzed for reporting to local and regional inspection managers and other FSIS officials. These reports identify strengths and weaknesses in the inspection program, highlight trends in program effectiveness, and provide benchmarks to ensure that the program is administered uniformly. Problems are quickly reported and corrected before they become serious. Thus, the Review and Evaluation Staff serves as a means of checking the effectiveness of inspection and as an early warning system for developing problems. It would continue to perform those functions under a system of less-than-continuous inspection.

Other arms of Government both inside and outside USDA perform important oversight and auditing functions and serve to monitor the inspection program. The General Accounting Office conducts periodic investigations and studies of both slaughter and processing inspec-

tion and reports its findings to the Congress. The Congress itself also regularly scrutinizes the operations of the inspection program though its oversight and appropriation functions. Finally, the Department's Office of the Inspector General conducts audits and investigations of all USDA programs--including the inspection system --and reports directly to the Congress and the Secretary of Agriculture. These agencies have been important instruments for monitoring the efficiency and effectiveness of the inspection system in the past; under less-than-continuous inspection, they would continue to perform that vital role.

Mr. Chairman, I would now like to address the proposal to amend the EPIA.

The Legislative Proposal and the Inspection of Egg Products Processing Operations and Shell-Egg Handlers

Inspection under the EPIA required appropriations of $7.6 million in fiscal year 1981. Under the proposed amendments, these appropriations would be reduced by $1.5 million--or about 20 percent. That reduction is reflected in the proposed budget for fiscal year 1983 of USDA's Agricultural Marketing Service, which is responsible for inspection under the EPIA.

The EPIA, while having many similarities to the meat and poultry statutes, does differ in several important areas. The Act consists of two major portions--one deals with the continuous inspection of processing operations of plants manufacturing liquid, frozen, and dried egg products and the other involves periodic inspections of egg handlers to determine the disposition of certain types of undergrade eggs. I would like to discuss the continuous inspection and shell-egg activities separately and explain how the proposed amendments would affect each area.

First, continuous inspection of processing operations. Unlike the meat and poultry products inspection acts, the EPIA does not require USDA to provide inspection for the processing of most foods that contain eggs. Since many foods--such as bread, ice cream, mayonnaise, noodles, and cake--contain eggs in some form or some quantity, the Congress determined, and wisely so, that it would be impractical and unnecessary to reinspect foods containing egg products, provided the egg products used as an ingredient in the food have been inspected and found to be wholesome and unadulterated. Restaurants, bakeries, and other food manufacturers using inspected egg products come under the jurisdiction of FDA and State and local health authorities. Thus, continuous inspection of egg products is limited to 115 egg-breaking and egg-drying plants operating 146 shifts. During fiscal year 1981 about 1.2 billion pounds of liquid eggs were inspected in these plants.

The present Act also requires Federal inspection of egg-breaking and egg-drying plants shipping in intrastate commerce as well as those doing business in interstate and foreign commerce and authorizes the Secretary to cooperate with State Departments of Agriculture in administering the Federal inspection program. The primary reason for this provision was that no States had an egg products inspection program requiring continuous inspection when the law was enacted. Currently, we have State inspectors working under Federal supervision on 30 of the 146 shifts.

The original legislation was enacted in 1970 for two basic reasons. First, there was a public health problem. Although 75 to

80 percent of the egg products were inspected under the Department's voluntary egg products inspection program, there were incidents of food poisoning, primarily salmonellosis, caused by uninspected egg products and certain types of shell eggs. (Salmonellosis is a disease that causes severe intestinal disturbances and that occasionally results in fatalities in infants and persons with underlying diseases.) Moreover, uninspected product was selling at up to 33 percent less than inspected product. This situation created unfair competition for wholesome, inspected eggs because food manufacturers and other users of egg products had a strong economic incentive to patronize processors of uninspected egg products.

The egg products portion of the Act has worked well since it became effective on July 1, 1971. Users have confidence in the products they buy, and processors can compete on a fair basis in the marketplace. During this 11-year period, the Department has gained valuable experience in administering the program. We now believe that certain types of processing operations need not be covered on a continuous basis to maintain a highly effective inspection program. The present Act requires continuous inspection of the processing of liquid, frozen, and dried egg products. Processing is defined as "breaking eggs, filtering, mixing, blending, pasteurizing, stabilizing, cooling, freezing, drying, or packaging" egg products. We now provide inspection in all the 115 egg products plants for these processing operations.

Our experience has shown that the key to a successful egg products inspection program is controlling the quality of the eggs to be broken. In other words, we have to make sure unfit shell eggs, such as dirties, leakers, losses, inedibles, and incubator rejects, are not broken and used in the manufacture of egg products. To do this we must maintain continuous inspection of the breaking operation. The proposed legislation clearly sets forth that this requirement will be retained in the law. On the other hand, we believe that the other nine processing operations--filtering, mixing, blending, pasteurizing, stablizing, cooling, freezing, drying, and packaging--can be covered on a spot-check basis without adversely affecting the inspection program. In addition to spot checks of sanitation and processing operations, each lot would receive a final organoleptic examination before shipment, and laboratory analysis would be conducted on a periodic basis.

Currently, plants must have proper plant facilities and equipment, including certain control devices such as recording charts to indicate proper pasteurization. Thus, if inspection assures that wholesome breaking stock is used, the risks involved in not having an inspector present full time to cover these other nine processing operations are minimal.

Today, egg breaking is performed on 112 of the 146 shifts. The Department now provides full-time inspection of egg-breaking operations and the other processing operations being conducted simultaneously. Under the proposed amendments, this level of inspection would continue in order to maintain the integrity of the egg products inspection program. On the other hand, we propose to reduce inspection activities on the other 34 shifts where no breaking is involved. All plants will continue to be covered daily, but inspection coverage of shifts where no breaking takes place will be substantially reduced. By so doing, we can reduce the inplant inspection force by 25 employees and costs by about $525,000 per

year. The compliance history of each plant will be of primary importance in determining the amount of the plant's inspection coverage.

Now, I would like to turn to the shell-egg portion of the Act--an area where about $975,000 per year can be saved if the proposed amendments are adopted. Under the Act and regulations, every shell-egg grading plant that packs eggs for the ultimate consumer as well as every hatchery is required to be inspected quarterly. Other egg handlers are inspected less frequently. There are approximately 3,000 packers, 700 hatcheries, and 800 other egg handlers registered under the Act. During fiscal year 1981 the Department conducted about 17,500 inspection visits. Reports of noncompliance were filed in only about 8 percent of these visits, and some of the reports were for minor irregularities such as incomplete records and labeling infractions.

The purpose of inspection visits is to determine the disposition of "restricted" eggs--checks, dirties, inedibles, losses, leakers, and incubator rejects. Restricted eggs are health hazards or potential health hazards. If these six categories of eggs are removed from use as human food in shell form, the nation's shell-egg supply is deemed wholesome. Checked or cracked eggs must be sent to egg products plants for breaking and pasteurizing under USDA inspection. Dirties must be washed or sent to an egg products plants for handling. The other four categories of restricted eggs must be denatured or rendered unfit for human food.

Periodic inspection suffices for assuring the wholesomeness of shell eggs because the quality or condition of eggs in shell form cannot be concealed from an experienced egg inspector. Thus, the shell-egg program lends itself to spot-check or surveillance-type inspection procedures. On the other hand, unwholesome eggs can be concealed in liquid or frozen egg products if they are broken and mixed or blended in with acceptable egg products. Because of that fact, the Department will maintain continuous inspection of egg-breaking operations in egg products plants.

The shell-egg provisions of the EPIA became effective July 1972. Here, again, the Department has gained valuable experience in administering the program, and the industry has changed some of its marketing practices. Before the passage of the EPIA there were outbreaks of food-borne illnesses caused by salmonella or other pathogenic bacteria carried on the shells of dirty eggs or in broken or leaking shell eggs. Such eggs were frequently bought by nursing homes, other institutions, and food manufacturers. When the shell-egg portions of the EPIA changed these practices, the number of food poisoning cases caused by restricted eggs was dramatically reduced. According to the Communicable Disease Center in Atlanta, Georgia, there have been only seven reported cases attributed to eggs in the past 5 years.

During the 10 years that the shell-egg portion of the EPIA has been in effect, the Department has accumulated compliance histories of the egg handlers subject to the Act. Under the present statute, handlers with good records of compliance as well as those with poor compliance histories have to be inspected at least once each quarter. We believe such a requirement is unnecessary in most instances. The proposed amendments would authorize annual rather than quarterly visits, but would allow more frequent inspection if deemed necessary. This change would reduce our costs while maintaining adequate enforcement.

Shell-egg inspection is handled for the most part by State departments of agriculture working closely with USDA's field

supervisory staff. In fact, we have cooperative agreements with 47 States authorizing them to perform this function. Each State has a State egg law requiring eggs to be properly labeled as to grade and size and an egg law enforcement staff to administer the program. These staffs of qualified State graders are used to perform Federal inspection work. Each State is fully reimbursed for this assistance. In fiscal year 1982 USDA will reimburse the States about $1.25 million for shell-egg inspection activities. The reduction in required inspection visits would substantially reduce the workload handled by the States, and reimbursements to the States would be lowered by about $700,000.

Like those of the meat and poultry products inspection acts, the enforcement provisions of the EPIA have worked well. Enforcement under the EPIA is handled in a number of ways, beginning with product detentions at the plant and in commerce, letters of warning, withdrawals of inspection, consent decrees, injunctions, and court actions. During the past 5 years over 1,100 letters of warning have been issued, about 240,000 cases of shell eggs detained and regraded, and 14 court actions completed--all successfully. Fines have ranged up to $5,000. Only one case was found serious enough to warrant imprisonment.

Mr. Chairman, I would now like to conclude my testimony and to summarize the Department's position on the proposal to amend the FMIA, PPIA, and EPIA.

We believe that the proposed legislation would improve the efficiency of the inspection of processed meat and poultry products without reducing its effectiveness. A less-than-continuous system of inspection would allow the Department to take full advantage of the product monitoring systems developed by industry and to base inspection on the known ability and willingness of each firm to comply with the meat and poultry products inspection regulations. We do not believe that it is necessary for the Department to have inspectors visit every meat and poultry processing establishment on a daily basis. Many companies are as committed to producing safe and wholesome products that are in compliance with USDA regulations as the Department is to having them do so. In such cases daily inspection is not only unnecessary but is also a misuse of inspection resources. We firmly believe that inspection could be accomplished just as effectively as it is today on a less-than-continuous basis. And we believe that the current sanctions available to the Department and the current enforcement mechanisms would continue to provide effective controls under less-than-continuous inspection.

In the case of egg-processing operations, we believe that inspection coverage of shifts that do not break eggs can be safely reduced. We also think that annual inspection of shell-egg handlers with good compliance histories is sufficient to ensure a safe and wholesome egg supply. In conclusion, the legislative proposal before you today provides a rational and realistic basis for the inspection of processed meat, poultry, and egg products and of shell-egg handlers, and we urge the Congress to adopt the proposal.

WRITTEN QUESTIONS FROM SENATOR HAYAKAWA AND THE DEPARTMENT'S ANSWERS THERETO

Question: In the late 1960's the FDA initiated the Cooperative Quality Assurance Program to assist manufacturers in sharing information on processes and production methods and to help control critical production areas. The FDA program was dropped in 1978. Why does FSIS expect to succeed with a quality control program when FDA failed?

Answer: In the decade that FDA participated in the Cooperative Quality Assurance Program, only a small fraction of eligible establishments participated. For the most part, FDA found that the firms that did participate already had viable quality assurance programs in effect. Their involvement in the program was generally to refine procedures and expand quality control to other areas of that operation.

FDA found their effort too staff-intensive for the results it was achieving. Plants that had compliance problems or operating irregularities, the type of establishment that FDA originally hoped to reach, chose not to participate. Thus, the Cooperative Quality Assurance Program was dropped in 1978.

Unlike FDA, USDA has always had an in-plant inspection program, with continuous, daily presence in establishments for seventy-five years. Therefore, the Department has been able to adjust its regulatory requirements to meet the evolving technologies and capabilities of the meat and poultry industries. The efficiency and effectiveness of inspection can be increased without any loss in consumer protection. The benefits of adjusting inspection requirements accrue to all parties.

In 1980, FSIS published final regulations implementing a voluntary total quality control (TQC) program after many years of experience with partial QC programs. Early experience with the TQC program indicates benefits for both USDA and the meat and poultry industry. Plant benefits have included savings resulting from better net weight control on ingredients, increased productivity and reductions in USDA inspection overtime charges. As of July 1, 1982, 70 TQC plans had been approved. While many of these plants had existing quality control systems, some had not used any QC procedures before entering the program. The reduced overtime benefit provides an obvious marketing advantage for the USDA program over the former FDA program. While it may not provide the greater benefit to participating firms, it is the benefit that is more identifiable and most easily understood. Additionally, the availability of the QC logo to plants participating in the program is another benefit over the FDA program.

The plants currently in the system represent a wide variety of sizes, production practices and QC experience. The experiences of these plants will play a major role in the future of the TQC program as well as less-than continuous inspection.

To date, the Agency has realized considerable efficiency gains from the TQC program. Preliminary data show that 44 of the initial TQC plants had a traditional inspection workload of 51.5 staff years and a TQC workload of 27.6 staff years, a reduction of approximately 46 percent. This reduction in the inspection workload has allowed the Department to allocate the saved staff years to areas where they are most needed.

Question: Will participation in USDA's TQC program be a necessary requirement for less-than-continuous inspection?

Answer: Specifics on what requirements a plant would have to meet to qualify for less-than-continuous inspection have yet to be decided upon by USDA. However, since the adequacy and reliability of the company's product monitoring system is one of the criterion that must be considered under the legislation in determining a plant's eligibility, the implication is that some form of quality control will be necessary to insure that the plant can continue to produce a safe, wholesome and properly labeled product under a less-than-daily inspection system.

Question: How will the Agency define the inspector's role under this legislation? How will that differ from traditional inspection? How will it differ from the type of inspection carried out by the Food and Drug Administration?

Answer: Under traditional inspection it has been the Department's responsibility to conduct the inspection activities necessary to ensure that meat and poultry products are wholesome, unadulterated and accurately labeled. Under TQC inspection, plants are responsible for operating an inspection system or product monitoring system USDA inspectors. Plant-operated inspection systems have to provide USDA with assurances that product is safe, wholesome and properly labeled.

The type of inspection conducted under the proposed legislation would be considerably different from the inspection conducted by the Food and Drug Administration (FDA). The FDA inspects most food plants on an annual or semi-annual basis, or less, where USDA would initially be inspecting most eligible processing plants either two, three or four times per week. The primary purpose of the USDA inspection would be to ensure that the plant's quality control system is working properly. The FDA inspection is focused on compliance with the Acts administered by FDA.

Question: Has FSIS had to hire any additional headquarters personnel to implement the TQC program? Would FSIS have to hire additional staff to implement the proposed legislation? If so, how many? Would FSIS need any additional management information to implement the proposed bill?

Answer: In the beginning phases of the TQC program, the Department hired a few specialists in food production quality control to help coordinate the program and assist in technical development. Some of these specialists were hired as consultants and are no longer with the Department. FSIS now has approximately a dozen positions that are predominantly involved in approving TQC plans or are responsible for evaluating the program and developing recommendations for improving the program.

Additionally, each regional office has one or two QC specalists who assist plants in developing their TQC programs and who review the programs submitted for approval. The Department also has training specialist who develop and teach the necessary TQC skills to inspectors, circuit supervisors, and a few State and industry people. There is, therefore, within FSIS a dispersed base of knowledge about TQC.

FSIS should be able to utilize its existing personnel and information systems to implement the proposed legislation. The TQC program has given the Department valuable experience in evaluating the effectiveness of a product monitoring system.

FSIS already collects data on production volume and the types of products produced. To implement a less-than-continuous inspection program some realocation of headquarters personnel would be necessary and some minor adjustments in reporting procedures and support systems would be required.

Question: What criteria are now used to determine whether a plant qualifies for TQC? How will the criteria differ for determining whether a plant qualifies for less-than-continuous inspection?

Answer: Approval of TQC plans is on a case-by-case basis. Each specific and unique plant must prepare a plan that, when implemented, will ensure that the products produced under the plan are wholesome, unadulterated, and properly packaged and labeled. Obviously these plans will vary considerably in scope and detail. This case-by-case approach allows for flexibility and provides for a system of inspection that has a minimal impact on productivity and technological innovation.

The proposal for the Secretary's decretion over the level of inspection in processing plants identifies three criteria for determining the intensity of inspection: the nature of the plant's operations, i.e., whether the plant produces relatively low consumer risk products such as steaks and chops, or high risk products such as canned items; the plant's history of compliance with inspection requirements; and the adequacy of the plant's own controls for meeting inspection requirements. These criteria are all considered to varying degrees when approving TQC plans. Additionally, the Department will look at the record for a plant during its QC operation. Factors such as any increase in defect levels or criminal activities while operating under QC will be considered before implementing less-than-continuous inspection. Also, a history of criminal activity in any plant will be reviewed in determining eligibility for less-than-continuous inspection.

Question: There are approximately 6,800 plants with processing operations. How many of these plants could today qualify for TQC? How many could be under less-than-continuous inspection?

Answer: All 6,800 plants are eligible for the TQC program. However, the Department recognizes that some plants would have to make changes in facilities, equipment, operating procedures or management attitude in order to qualify or be accepted. In a very qualitative sense, we estimate that perhaps one out of five plants would have to make major changes in one or more of these four areas before they could qualify for the TQC program; and considering the nature of this estimate, the number of plants that could not, without major changes, be considered for less-than-daily inspection. The one-in-five estimate is a ballpark figure based on conversations with several circuit supervisors. It doesn't necessarily imply that there are existing problems in these plants. For example, some plants would simply require considerable capital investment in order to convert to a quality control type of operation.

In the positive sense, it is therefore estimated that up to 5,500 plants could qualify for either the TQC program or for less-than-continuous inspection as outlined in the current legislative proposal.

Question: Would plants with USDA approved partial quality control programs be viewed the same as plants with TQC? What about plants with approved partial programs covering all aspects of their operations?

Answer: The Department is continuing to encourage plants to submit plans for partial quality control programs, and

currently there are over 2,000 approved partial quality control programs in approximately 700 of the total 6,800 plants that conduct some processing operations. Some plants with one or more partial programs receive inspection that is very similar to a TQC inspection. Other plants with partial programs receive a strictly traditional type of inspection. The number of partial programs does make a difference but equally important factors are related to the attitude of plant management and the degree to which the plant has accepted responsibility for the wholesomeness of their product.

Question: Will all TQC plants be placed on less-than-continuous inspection? If not, then under what circumstances would a plant qualify for TQC and not qualify for less-than-continuous inspection?

Answer: In most cases, yes. However there may be particular cases where the combination of equipment, processes and production are such that the Department may choose to continue with daily inspection. An example might be a large volume plant using complex thermal processes with equipment that does not have all the available modern recording or control devices. Another example could be in a plant with a previous criminal conviction. We estimate that more than 90 percent of the TQC plants could be expected to qualify for less-than-continuous inspection. However, decisions would still be made on a case-by-case basis using the criteria specified in the proposed legislation.

Question: Mr. McMillan, I understand that the Department has some additional minor changes which you recommend in the Egg Products Inspection Act. Please explain these for us or submit them for the record, if you prefer.

Answer: There are two additional relatively minor changes we would suggest be made to the Act. Section 17(a) requires imported egg products to be "... processed under an approved continuous inspection system of the government of the foreign country of origin ..." In order to make sure our foreign trading partners cannot accuse us of applying different standards for imported products, we suggest the second sentence of Section 17(a) be changed to read as follows: "No egg products capable of use as human food shall be imported into the United States unless they were processed under an approved inspection system, including the continuous inspection of egg breaking, of the government of the foreign country of origin or subdivision thereof and are labeled and packaged in accordance with and otherwise comply with the standards of this Act and regulations issued thereunder applicable to such articles within the United States."

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The other minor change involves the language to the proposed amendment to Section 5(a) of the Act. In the second sentence, change the word "establishment's" to read "plants". This will prevent confusion since under the Act the word "establishment" is used to refer to a firm not eligible for inspection, while "plant" means a place where egg products are processed.

Question: Mr. McMillan, what do you foresee as possible ways to enhance efficiency and reduce costs of inspection in the future? Could slaughter inspection be "less-than-continuous" eventually, or could partial quality control be included as a criteria for reduced inspection?

Answer: Right now USDA does not foresee a great deal more that can be done in meat processing inspection to obtain the efficiencies and savings that we expect to achieve through discretionary processing inspection. The Poultry Products Inspection Act, however, provides the Secretary with greater discretion in determining the level of inspection than is provided under the Federal Meat Inspection Act and we are beginning to explore ways in which we can make modifications in the poultry inspection program to improve efficiency and reduce costs in the program. No firm decisions have been made as yet in this direction, but the Members of the Committee can be sure that we will continue to keep them informed of any steps we may take in the future to modify the poultry inspection program.

Question: Mr. McMillan, specifically, what would a plant have to do under this legislation to qualify for less-than-continuous inspection? Do you think a plant should have the option of staying with continuous inspection if they choose? Why or why not?

Answer: Specifics on how a plant would qualify for less-than-continuous processing inspection under the criteria in S. 2348 will be set forth in rulemaking upon enactment of the bill. At this time no firm decisions have been made as to what will be required in the proposed regulations. However, once those regulations are published as a proposal the public will be given ample opportunity to comment on the specifics of the program.

The Department of Agriculture would be opposed to amending the bill to allow the individual plant the option of remaining under continuous inspection if they meet all the necessary qualifications for less-than-continuous inspection. In order to allow the Department as much flexibility as possible in achieving the efficiencies intended by this legislation, we believe it is important

that the Secretary's discretion to bring a qualified plant under less-than-continuous inspection not be limited through statutory language allowing the plant the option to remain under continuous inspection. However, management's attitude toward reducing inspection in their plant on less-than-daily basis would be an important consideration in bringing that plant under less-than-continuous inspection and therefore would, in our opinion, allow the latitute some plants are seeking in coming under the program.

Question: What kind of recall authority does FSIS have and will it provide sufficient protection to consumers under a less-than-continuous inspection program?

Answer: Like FDA, USDA does not have the authority to order the recall of a food product. All food recalls, either USDA or FDA monitored, are conducted on voluntary basis in lieu of some formal court action such as a seizure. Through the cooperation of industry we have found these voluntary actions to have been sufficient in the past to address any problems.

Question: Mr. McMillan, you mention "management's attitude" as a factor to be considered. How would this be quantified or measured objectively?

Answer: "Management's attitude" toward and ability to deal with sanitation and other product safety requirements in complying with the meat and poultry inspection acts would be important considerations in determining a plant's eligibility for less-than-continuous inspection. While we agree this is not a factor that is as easily measured as other criteria required by the legislation, through the use of compliance and review evaluations of the plant and inspector reports FSIS will be able to make a judgement as to plant management's committment to producing a safe, wholesome and properly labeled product under a less-than-daily system of processing inspection; a factor that will be vitally important to the overall success of the discretionary processing inspection program.

Question: Mr. McMillan, currently USDA is responsible for margarine made from animal fat, while FDA is responsible for margarine made from vegetable oils. What is your position regarding proposals to transfer responsibility for all types of margarine to FDA?

Answer: The Department of Agriculture is supportive of efforts to transfer inspection responsibilities for margarines made from animal fat from USDA to the Food and Drug Administration and will be happy to work with the committee in drafting an amendment to achieve the transfer long sought after by the margarine industry.

Question: Will this legislation totally change processing inspection as we know it today?

Answer: Yes. In traditional inspection, USDA inspectors work largely through direct observation and collection of samples of finished product to determine compliance with the regulations. The emphasis is essentially on detection of noncompliance with USDA regulations. The TQC program shifts the emphasis of inspection to prevention.

TQC systems also change the relationship between processors and USDA inspectors. During the rapidly growing years of the industry, many processors tended to rely on USDA inspectors to control the quality of their products. In other words, inspectors became the eyes and ears of plant management and were depended on to intervene whenever production probems arose. TQC systems provide processors with procedures for controlling production that are more sophisticated than USDA inspectors can provide. TQC shifts more responsibility for compliance to the processor.

Question: How many visits per week will an inspector make to a plant under the program? Will this number be fixed or variable, i.e., is it reasonable to expect that a plant will be inspected daily for one week, then twice a week for the next few weeks, and then daily again?

Answer: Because less-than-continuous inspection centers around a determination being made of the level of inspection needed on a plant-by-plant basis, I am not prepared at this time to discuss a maximum or minimum number of visits for a particular type of operation. However, right now I forsee complex operations initially being monitored as many as three or four times weekly. As a good history of compliance is developed, visits could drop to once or twice weekly. Conversely, the opposite could occur if compliance becomes a problem. The Department certainly would want the flexibility to vary the rate of inspection from week to week.

Question: Will this legislation totally eliminate the need for inspector overtime?

Answer: Not entirely. Almost all overtime charges for TQC plants will be eliminated. However, there are a number of plants that we expect will not qualify for less-than-daily inspection. These plants would continue to incur overtime charges as they do today.

Question: In the one and a half years since FSIS implemented its TQC program, only 70 plants have been cleared to participate. Will FSIS be able to respond to a potential flood of plants requesting TQC approval if this legislation is approved?

Answer: The rate that plants have been volunteering for the TQC program has been increasing in 1982. All five Meat and Poultry Inspection regional offices have been intensifying their efforts to assist plants in writing TQC plans. The time to review and approve a TQC plan continues to decrease as staff gains more experience and is able to standardize various elements in a plant that can be uniform for all plants or certain categories of plants. FSIS believes it has the resources and expertise to respond to plants requesting TQC approval.

Question: How are you training the inspection force to handle TQC inspection?

Answer: To date, about 450 inspectors and their supervisors have participated in a program which trains them to conduct TQC inspection. The three-part program was developed by FSIS with the help of industry representatives and members of the academic community. The inspectors review the basics of meat and poultry science, learn how to write plans of inspection and schedules, learn how to monitor critical inspection points, and experience hands-on laboratory work. Participants in the training program have shown a great eagerness for TQC training. By the end of fiscal year 1983, the Agency will have completed 20 training classes.

Question: Won't the enactment of this legislation mean increased sampling to assure compliance? If so, isn't this just a shifting of resources and not a budget savings? Does the Agency have sufficient laboratory capabilities or access to facilities to handle increased sampling without affecting plants' production and shipping schedules?

Answer: The proposed legislation would not necessarily lead to increased sampling. In fact, there is recent evidence that FSIS could decrease sampling in many of the plants that would be likely candidates for less-than-continuous insection. As part of a study of FSIS's processed product inspection activities, the U.S. General Accounting Office (GAO) recently analyzed a variety of results from samples collected by FSIS inspectors. The GAO found that over the past two years, only 37 of our 8,600 verification samples from seven partial quality control programs were out of compliance. These findings from a judgmentally selected sample have led GAO to question whether FSIS could tailor its sampling of products according to plant's compliance history and a capability to perform its own sampling, and thereby reduce the overalls number of samples taken and analyzed. The GAO concluded that FSIS could save sampling costs and use inspectors' time more efficiently if it reduced the number of samples taken from plants with good compliance history and sampling capability.

Question: The Department has projected a budget savings of $26 million and the reduction of more than half of the Agency's current processing inspection positions by 1989 under less-than-continuous inspection. Will this loss of budget and personnel by 1989 put the Agency in a vulnerable position if there should be a sudden increase in the numbers of plants out of compliance? In a similar vein, if TQC is a necessary requirement for less-than-continuous inspection and assuming that it is 1989 and there are 3,000 TQC plants and the corresponding reduced number of inspectors, won't industry have unusual collective bargaining power if they threaten to unilaterally drop TQC?

Answer: The Department and the meat and poultry industry share the common goal of striving for an inspection system that is uniform nationwide, consistent from plant-to-plant, as objective as possible, and implemented in a professional manner by a well-trained inspection force. Because of this common goal, neither the Department nor the industry would want to be in a position where a large number of new, relatively inexperienced and untrained inspectors would be required. Thus, the Department does not foresee a sudden increase of plants failing to comply with the law or abandoning TQC unilaterally as it would not be in their own interest to do so.

Question: The Department has stated that TQC inspections require fewer resources than traditional inspections. If FSIS increased its emphasis on TQC and didn't have the Secretary's discretion legislation, how many resources (staff years and dollars) could be saved? Can these staff years be saved through attrition? Would the proposed legislation lead to RIFs?

Answer: As of early FY 1982, FSIS had the equivalent of approximately 2,300 full-time inspectors assigned to processing operations. Today the level is closer to 2,200. Using a budgeting estimate of $23,000 for each inspector, the total annual inplant cost for processing inspection is approximately $50 million. Some recent data show that 44 of the early TQC plants had a traditional inspection workload of 51.5 staff years and a TQC workload of 27.6 staff years, a reduction of approximately 46 percent. (Since the proposed legislation would mean that an inspector would not have to be in a plant every day, this 46 percent reduction would be higher.) Applying the 46 percent to the total $50 million results in the theoretical estimate that the TQC program could save approximately 1,000 positions or $23 million annually in inplant inspection costs if all processing operations were eventually under TQC inspection. This $23 million estimate does not include the savings from overtime and holiday inspection now paid for by the industry. The Agency could save more resources with a combination of TQC and less-than-continuous inspection.

Some TQC plants are inspected daily because the law requires it, not because consumer protection demands it. This legislation gives FSIS the freedom to allocate its resources more efficiently and effectively.

FSIS does not control the rate of growth in the TQC program because it is voluntary. The program is currently growing at a rate where the savings in positions are for less than a normal attrition rate.

The Department has estimated that the proposed legislation could save over 1,100 positions and over $26 million annually by the seventh year after implementation. These estimates are based on an attrition rate of 5.5 percent and no RIFs. Thus, the estimated savings for this proposal have been limited by attrition and are not based on the number of inspectors required. A concise estimate of the number of inspectors that would be required under this proposal would be premature until the implementing regulations were developed and additional information became available on the number of plants that would be identified as being eligible for less-than-continuous inspection.

Question: Will plants be required to submit additional company records to the Agency to qualify for the program? If so, will these records be exempt from FOIA requests?

Answer: Since plants under less-than-continuous inspection will need an approved QC plan, it is expected company records submitted to USDA will be similar to those required under the USDA's voluntary TQC program. They include recipes for product; finished product specifications; sanitation specifications; sampling plans; methods for verifying certain labeling claims; and employee training programs. Required records vary from firm to firm depending on the type of ingredients, equipment, and final product. USDA's final TQC regulation stated that, "The Department has determined that information submitted by plants in connection with this regulation include trade secrets or confidential commercial or financial information which is privileged or confidential and therefore exempt from mandatory disclosure under FOIA."

Question: Will this legislation be perceived by our trading partners as a lessening of standards and consequently hurt our export markets?

Answer: No. Few foreign countries have domestic inspection programs of the level of intensity of inspection as that required by the United States. Their export systems, of course, must be equal to our domestic system. In fact, other countries will be closely monitoring our efforts to determine if a total quality control program could be adapted to their processing industries.

Question: Will the inspection of foreign plants change? Will the Department have to modify the existing requirements for foreign inspeciton systems operating in those plants exporting to the United States?

Answer: It is reasonable to expect that USDA requirements for foreign plants would be modified to some extent. To refuse to do so might be construed as creating a trade barrier. By law, the final result of any foreign program, must continue to be an inspection level that is equal to the level provided by USDA.

Question: Does the Agency have sufficient regulatory sanctions to handle compliance problems that might arise due to reduced inspector presence? What sanctions now exist?

Answer: Yes, we do. Under current authority USDA inspectors may impose certain immediate sanctions when adulterated and misbranded meat or poultry products are found in official establishments. These sanctions would be retained under the legislative proposal, and inspectors would be able to concentrate their efforts on areas where problems are likely to arise.

The Department has a broad range of product control mechanisms and sanctions--retentions, rejections, condemnations, detentions, seizures, letters of warning, injunctions, prosecutions, and withdrawals of inspection--for controlling adulterated or mislabeled product after it has moved in commerce. This range of intra- and extra-plant actions gives the Department adequate regulatory sanctions to handle compliance problems effectively. (See p.30-37 of USDA's testimony for more detailed information on USDA sanctions and past compliance actions.)

Question: Under what types of circumstances have existing sanctions been imposed?

Answer: From 1971 through 1981, the Compliance Division of the inspection program was involved in 8,600 cases of detained product totaling over 126 million pounds, an average of 781 cases involving 11.4 million pounds of product each year. Most of this product was either voluntarily brought into compliance or voluntarily destroyed for human food purposes. However, from 1971 through 1981 the Department found it necessary to obtain court-ordered seizures in a total of 59 cases involving 763,000 pounds of product--an average of 5 seizures, which together involved more than 69,000 pounds of product each year. In addition, during the same period, there was a total of 57 voluntary recalls of product, involving almost 26 million pounds of product--for an average of 2.3 million pounds of product involved in about 5 recalls each year.

From 1971 through 1981, the Compliance Division also issued 9,272 letters of warning to companies for minor violations--an average of 843 each year. Compliance refers serious cases to the Department's Office of General Counsel for legal action. From 1970 through 1980, 605 cases-- about 60 cases a year--were referred to the Justice Department for review and action. During the same period, Justice prosecuted 236 cases, or about 24 a year.

Since 1974, 59 withdrawal-of-inspection actions have been taken. Fifty-five of these actions were based on convictions, two were for insanitary conditions, and two were for assault. Examples of violations prosecuted are selling and transporting nonfederally inspected meat in interstate commerce; preparing, transporting, and selling adulterated and misbranded meat; falsifying official documents; the unauthorized use of USDA brands; the use of counterfeit brands; substituting meat byproducts or nonmeat fillers in processed meats; slaughtering and preparing diseased animals for human consumption without complying with the FMIA; and knowingly distributing meat products after adding an unauthorized chemical agent.

Question: Is it reasonable to assume that plants will be taken out of less-than- continuous inspection? Will the same criteria apply for both entry and exit from the program? Will there be any formal action (e.g. letter or notice) to indicate that a plant has entered or been removed from the less-than-continuous program?

Answer: Under current authority the Department has a program that assigns inspectors to meat and poultry plants on a daily basis. The proposed legislation gives the Secretary broader discretion to implement inspectional coverage wherever and whenever necessary. The assessment of where, and at what frequency, inspection is most needed could change, but at all times the Secretary will make this differentiation. A plant will have no control in determining inspection coverage.

There would not be any formal action to indicate that a plant has been removed from less-than-continuous inspection. If we believe a violation is likely to occur, an inspector will be there on a continuous basis.

Question: If a plant is found not to be in compliance under less-than-continuous inspection, at what point would the Agency return to continuous inspection?

Answer: Being "in compliance" is no simple yes or no situation. Violations can vary widely in seriousness and scope. For example, they can range from minor, technical breaches of the regulations to violations that may represent

a hazard to public health or that may constitute economic fraud. In addition, the amount of product involved in a violation may range from a few pounds to millions of pounds, or a violation may have occurred because of ignorance of the regulations, a mistake or oversight, or through a willful disregard of the laws and regulations. All of these factors must be considered in the decision on frequency of inspection.

Question: How many compliance officers does the Agency currently have? Will the Agency need more compliance officers under a less-than-continuous program for retail sampling to insure adulterated product has not gotten into distribution channels?

Answer: The Compliance Division of the inspection program was established in 1964 to deter and detect violations of the meat and poultry inspection laws and regulations. The program supplements in-plant inspection by monitoring meat and poultry products throughout channels of distribution. In its work, the Compliance Division checks all product handling points, including locations where product is collected, packaged, and stored. The Compliance Division also monitors handlers of uninspected or inedible meat and poultry products to prevent these products from being diverted into human food channels. Industries allied to the production of meat and poultry products are subject to intermittent, unannounced reviews.

Today, a network of about 60 FSIS compliance officers monitor allied industries such as wholesale distributors and retailers to ensure that meat and poultry products intended for human consumption are safe, wholesome, and accurately labeled. Compliance officers--who are chosen from lists of highly qualified food inspectors with demonstrated ability and widely varied experience--explain requirements of the law to industry, review records, and maintain a systematic surveillance to deter and detect adulterated, misbranded, or otherwise unsuitable meat and poultry products intended for human consumption. They also screen shipments of meat products intended for animal food/feed to ensure that the products have been adequately identified for that purpose.

In a system of less-than-continuous inspection, the Compliance Division would continue to provide a systematic monitoring of meat and poultry products prepared at processing establishments, and its activities would be closely coordinated with in-plant inspection. While this may mean some changes in compliance operations we do not forsee additional Compliance officers being needed under the proposed less-than-continuous inspection program because no diminution of consumer protection will occur under this proposal. If anything, the access to objective criteria inherent in a OC system should strengthen public confidence in meat and poultry products and its superior quality controls.

Question: What effect will this legislation have on States which operate their own inspection programs? How will the phrase "at least equal to" be redefined? Will the legislation have any impact on the number of States which are turning their programs over to USDA?

Answer: This legislation should help ease the economic burdens of State programs, just as it should at the Federal level. State-run inspection programs often are responsible for large numbers of small plants which place a greater relative workload on inspection programs than do larger plants. With this legislation, States would be able to allocate their resources more effectively and economically. The MPI program estimates, however, that it may take an additional two to four years for States to implement less-than-continuous inspection programs since State inspection laws may also have to be amended. Many of the 27 State programs are patterned after a model meat inspection law which was drafted in the late 1960s to help provide uniformity between the Federal and State level. As under Federal statutes, this model law does not authorize less-than-continuous inspection.

The less-than-continuous amendment will not hamper the cooperative program which currently exists between USDA and the various State programs. USDA will continue to require that State programs provide a level of inspection that is equal to the level provided by the Federal program. States do not, and will not, need to create an inspection program that is identical to USDA's to do this. USDA recognizes that there is no one perfect inspection system.

Since States could find it expensive to set up centrally-controlled TQC systems, USDA could help reduce the burden by providing technical assistance. USDA could approve TQC programs for a State or in cooperation with the State, for the State to monitor. This legislation could slow down the rate at which States are turning over their inspection programs to the Federal Government since it could help States to better use their own limited economic resources.

Question: How will the Agency implement this legislation? Will plants volunteer or will the Agency identify which plants are eligible to come under the program?

Answer: The Agency will identify plants that are eligible for less-than-continuous inspection and will also reserve the authority to decide the nature and frequency of inspection provided. Thus, less-than-continuous inspection is not a voluntary program in which plants take the initiative. The Department will not respond to requests from individual plants.

At present we envision publishing proposed implementation procedures for public comment. At that time the Department can respond to suggestions that certain types or categories of plants, given the proper controls, be eligible for less-than-continuous inspection.

Question: What criteria will the Agency use to decide if a plant qualifies for the program? Will they be quantitative or qualitative? What is meant by the fourth criterion, "...and such other factors as the Secretary may deem appropriate"?

Answer: The proposed legislation explicitly states that inspection should be based on consideration of factors which shall include: (1) the nature and frequency of the establishment's processing operations; (2) the adequacy and reliability of an establishment's product monitoring system; (3) the establishment's history of compliance with inspection requirements; and (4) such other factors as the Secretary may deem appropriate. In implementing these criteria the Department would use all available resources and be as objective as practical. However, we do not envision any elaborate scoring and ranking schemes whereby the plants must achieve a specific point total before they qualify. Rather, the Department will develop guidelines for how the criteria will be used.

The fourth criterion was included in the legislative proposal so that the Secretary can consider investigations of criminal activity or a plant's history of criminal activity when assigning less-than-continuous inspection. In the former case, the criterion would be applied when it is too early to take legal action against the establishment. The criterion could also be used in situations in which a felony charge is reduced to a misdemeanor through plea bargaining.

Question: Most federally inspected plants are either small or very small businesses. What allowances will the Agency make for small businesses who wish to participate? Specifically, will the Department consider having different criteria for small plants or consider implementing a

"tiered" program consistent with the goals of the Regulatory Flexibility Act?

Answer: The Department does not plan on having different criteria for small plants because the criterion relating to the "nature and frequency of the estabishments' processing operations" will allow for consideration of plants by size. To date, small plants have had no special problems qualifying for the TQC program. In fact, the Department provides technical assistance to small plants that wish to join the TQC program and has developed a guidebook specifically to meet the needs of those plants. Small as well as large plants have been able to achieve savings through total quality control. The proposed legislation would permit a degree of inspection presence based on effectiveness that will benefit the small plant as well as the large.

Question: What criteria will the agency use to judge a firm's compliance history?

Answer: Although the Department may make initial decisions for less-than-continuous inspection on the basis of a firm's past compliance history, the crucial test of compliance will be the firm's performance under less-than-continuous inspection. Once a plant is in the less-than-continuous program, the degree of inspection might also vary, depending on the firm's compliance with regulatory requirements.

In determining a plant's eligibility for less-than-continuous inspection and the level of inspection under the program, FSIS will make use of all sources of information, including results from laboratory analyses, data from the Agency's Meatborne Hazard Control Center, customer complaints, and the plant's history of violations. The decision will also be based on the judgment of the Department's professionals. All questions concerning compliance history cannot be answered based on quantitative data, nor would FSIS want to develop a system so inflexible that there is no room for experienced professional judgment.

Question: What is meant by the "adequacy and reliability of an establishment's product monitoring system"?

Answer: The adequacy and reliability of an establishment's product monitoring program will be judged on the basis of the plant's quality control monitoring system. Specific requirements on what constitutes an eligible QC system will be further set forth under rulemaking.

Question: Does the Agency have to amend regulations before beginning a program? If so, when can we realistically expect a less- than-continuous inspection program to be in operation?

Answer: The Department could begin a program of less-than-continuous inspection almost immediately for most of the plants already in the TQC program; only a minor amendment to the regulations that established the TQC program would be required to bring those plants under less-than-continuous inspection, and that amendment could be published relatively quickly. Other provisions to finalize the program could be developed and proposed later.

Question: Other Federal regulatory agencies have modified their inspection and compliance programs in recent years by using the concept of risk assessment to assign resources to the areas most needing them. Yet, neither your background documents nor testimony mention risk assessment in implementing less-than-continuous inspection. Precisely how will the Department conduct this new form of inspection in an efficient and equitable manner without assigning risk categories to plants?

Answer: Although the Department has not used the term risk assessment, we see the criteria in the proposal as the basis for a system whereby we will assign higher levels of inspection to the plants presenting the highest risk. For example, "the nature -- of the establishment's processing operations" is the criterion whereby we will distinguish high risk products such as fermented sausage and pre-cooked roast beef from other products with no history of health and safety problems. Frequency of operations is directly related to public exposure and compliance history should have some relationship to the probability of a production problem. The type of product monitoring system may be the most important factor in assessing the risk associated with a particular plant. Therefore, while the Department does not intend to characterize plants by risk categories, the use of the criteria in the proposal will constitute a risk assessment process.

Question: In light of the recent Kansas City Times series with reported deficiencies in one out of five meat and poultry plants, how will the Agency assure consumers that reducing the presence of inspectors will not affect the safety and wholesomeness of their meat and poultry products?

Answer: The implication that one out of five plants reviewed was producing adulterated product is erroneous. The reviews represent isolated, "snapshot" views of the plants and not reflections of their entire operations. FSIS did find some unacceptable stiuations, but that does not mean that all the product from those plants was adulterated nor does it mean that all the problems found were threats to public health.

In 1981, meat and poultry inspectors kept over 164 million pounds of adulterated product out of the food supply. Of the inspection operations monitored by USDA,

only 5 percent are considered problem plants, another 10 percent are considered "marginal," and the remaining 85 percent have good records of compliance with federal inspection laws.

The Department recognizes that there are some individuals or groups that will always be skeptical of sampling plans or inspection plans that are based on statistical methods like TQC.

Our experience with the TQC program has shown that with the more systematic monitoring and increased data base provided by TQC systems, we can do a more effective job of inspecting processing plants. One way that TQC improves effectiveness is by changing our emphasis to prevention rather than detection. In an inspection which relies on sampling, like TQC, the emphasis is no longer just on the condition of the end product. Instead, it shifts to key points during processing where variations could occur to affect the end product. Mistakes are caught earlier so corrections can be made and adulterated or mislabeled products will not be shipped from the plant.

Based on the Department's knowledge and experience with total and partial quality control programs, the advice of experts in this area, the experience of test plant studies, and the experiences of other government agencies, the Department believes the TQC program is more efficient and effective than the present system of processing inspection, with no reduction in consumer protection.

Question: Will consumers, as industry contends, look upon the new inspection mark, "Prepared in a USDA inspected establishment," as an indication that the meat and poultry products they buy are inferior to those purchased under the current mark?

Answer: While there is no data available on precisely this issue, a 1980 survey conducted for the Department by Chilton Research Services shows there is considerable confusion among consumers as to the purpose of the inspection program. Consumers were asked "what do you believe is the purpose of the inspection program?" with alternative answers of quality, safety, wholesomeness, appearance, size, texture, flavor, and uniformity or consistency. While the majority of respondents correctly assert that safety is the purpose of the inspection program, a significant portion (40 percent) of the respondents incorrectly identified the product as being checked for quality as a component of the program. In addition, nearly 38 percent of the respondents believed that the circle mark indicates a product has been graded. The Department believes this indicates a lack of awareness on the part of many consumers as to the inspection mark and therefore a change in the inspection mark would not adversely affect the consumer's preception of product carrying the new mark as being anything but wholesome and safe. At the same time the new mark of inspection, in the

Department's view, more adequately describes the type of inspection we now do as well as that envisioned under the proposed legislation.

Question: It has been suggested that this legislation is necessary to avoid user fees. How can projected savings of $2 to $26 million be compared with OMB's proposal of user-fees covering $293 million of FSIS's total FY 1983 budget request of $319 million.

Answer: Less-than-continuous inspection may have an effect on the decision of whether to move toward a user-fee system to recover the cost of meat and poultry inspection. Although the projected saving of $2 to $26 million are small compared to OMB's user-fee proposal, less-than-continuous inspection may reduce the costs of processing inspection below a level where a shift in the cost from government funding to industry funding would not be beneficial. A second issue which less-than-continuous inspection brings to bear on a fee-for-service system would be the differential treatment of plants. If two plants are similar in terms of production levels and products processed, one plant may, for some reason, require more inspection hours than the other. If the plants are paying for these hours of inspection, court cases are likely to arise to determine why one plant receives only two hours of inspection per day and another plant receives four hours. Criteria establishing the amount of inspection needed would be difficult to objectively establish and enforce and would totally eliminate any discretion the Department has in inspection. Finally, the charging of user-fees under a non-continuous program may, in effect, make a voluntary TQC program mandatory. Plants not wishing to participate in the voluntary TQC program would pay for this decision through greater user-fee charges.

Question: With most of your budget dollars in slaughter inspection, why shouldn't consumers see less-than-continuous slaughter inspection as the obvious next step in providing dollar savings in the program?

Answer: Before recommending any areas for budget reductions, the Agency studies the issue to make sure that a reduction in funds would not compromise the mission of FSIS--that is, assuring consumers that their meat and poultry supply is wholesome, unadulterated and properly packaged and labeled.

The Department is not requesting legislative authority for less-than-continuous slaughter inspection. Slaughter inspection is the first and most essential phase of inspection. This form of inspection identifies those animals unfit for food and prevents them from entering the human food chain. In doing so, it also avoids the unnecessary contamination of wholesome carcasses. In the slaughter area, FSIS will continue to work to reduce costs

by modernizing its inspection procedures to increase the productivity of the inspection workforce, while providing the same level of consumer protection. For example, we have received a study conducted for us by Tuskegee University on flock testing. Healthy flocks may well require less intensive inspection. There may be certain factors such as the environment, vaccination program, antibiotic use, or flock health records, that may allow us to predict the condemnation rate at post-mortem inspection. Although it's too early to tell whether flock testing is totally effective, it may provide us with enough information to safely vary the intensity of inspection. We are continuing to look at procedures like this as a way of streamlining post-mortem inspection without reducing consumer protection. In comparison, our experience has shown that the effectiveness of processing inspection depends less on the number of hours an inspector spends in an establishment, than on the commitment and ability of the firm to produce safe, wholesome, and procedures like this as a way of streamlining post-mortem inspection without reducing consumer protection. In comparison, our experience has shown that the effectiveness of processing inspection depends less on the number of hours an inspector spends in an establishment, than on the commitment and ability of the firm to produce safe, wholesome, and properly labeled product. This is in contrast to a slaughter operation where the wholesomeness of the product is directly related to the health of each specific animal.

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STATEMENT OF ROBERT P. DUDLEY, DIRECTOR, RESEARCH AND DEVELOPMENT, GEORGE A. HORMEL & CO.

I am Robert P. Dudley, Director, Research and Development, George A. Hormel & Co., Austin, Minnesota. I currently serve as chairman of the National Food Processors Association (NFPA) Meat and Poultry Products Committee, and my testimony is offered on behalf of NFPA. NFPA is a trade association representing over 600 member companies, including a large segment of the canned meat and poultry processing industry. We appreciate this opportunity to address the important and timely proposal for increasing the United States Department of Agriculture's (USDA's) flexibility to set inspection priorities and to reduce continuous inspection burdens on canned meat and poultry processing operations with exemplary compliance records and quality control systems.

NFPA strongly supports S. 2348 as a framework for appropriate reduction of continuous inspection of meat and poultry processing operations. While there are a few aspects of the proposed legislation that could be improved, we applaud the USDA for supporting this legislation and making a positive effort to reduce unnecessary regulation and high government costs, while continuing to assure the safety and wholesomeness of meat and poultry products.

Most NFPA canned meat and poultry processors, including Hormel, also produce non-meat products subject to regulation by the Federal Food and Drug Administration (FDA). FDA, unlike USDA, does not employ continuous inspection of food processing operations. Rather, it fulfills its responsibility to assure safe and wholesome food products through periodic, unannounced establishment inspections, formal good manufacturing practice requirements, and prompt and vigorous prosecution of adulterated foods. In the early 1970's, NFPA (then the National Canners Association) was instrumental in helping FDA develop good manufacturing practice regulations for low acid canned foods. 21 C.F.R. § 113.

In testimony before the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Agriculture, in March, 1981, NFPA advocated legislation to permit USDA to phase-out continuous inplant inspection of meat and poultry processing operations as processing firms acquire the capability to develop and follow their own quality control procedures. The introduction of S. 2348 is a very important step towards this goal. In our prior testimony, we pointed out that continuous inplant inspection of meat and poultry processing operations is inconsistent with FDA regulation of non-meat products, fails to account for modern technological advances in food processing, unnecessarily restricts USDA's enforcement discretion, increases government costs, and may impose undue burdens on regulated firms.

In issuing regulations governing voluntary quality control of processed meat and poultry, USDA recognized that the primary purpose of continuous inspection was to prevent the use of diseased, dead, dying or disabled animals in slaughtering operations, that continuous inspection of processing operations was originally a minor aspect of this program and that the dramatic growth of meat and poultry processing operations, and technological advances in these firms, have made continuous physical inspection unnecessary and very costly. 45 Fed. Reg. 54312. In introducing S. 2348, Representative Wampler also recognized the substantial modernization of meat and poultry processing operations and the significant growth of company-generated quality control systems. Cong. Rec. E 1447; April 1, 1982.

Consistent with these findings, we made clear in our earlier testimony, and I repeat today, that NFPA's support for reduction of continuous inspection is limited to meat and poultry processing operations, and we do not advocate any change in the continuous inspection of slaughtering operations. As we understand it, S. 2348 would not permit USDA to alter continuous inspection of slaughtering operations. Some critics of the bill have apparently failed to appreciate this important limitation.

Moreover, with respect to processing operations, the bill would increase, rather than diminish, USDA's enforcement capability by permitting the Agency to focus its inspection resources on the plants that most need it. This has been confirmed by federal studies. For example, a 1977 study of the USDA inspection program by the Comptroller General found that plant conditions and processing methods have improved, that sophisticated quality control systems have been developed, and that meat and poultry plants are generally in good condition.*/ Accordingly, the Comptroller General concluded that USDA's ". . . inspection resources could be used more efficiently and effectively if inspection frequency at processing plants was tailored to the inspection needs of individual plants."**/

Modern canned meat and poultry processing operations are more similar to FDA regulated food processing establishments than to meat and poultry slaughtering operations. As noted, FDA does not conduct continuous inspection of food processing firms. There is no reason why USDA inspection of meat and poultry processing operations should be different. USDA has the same enforcement powers as FDA, including authority to institute seizures, injunctions and criminal proceedings, as well as important powers not possessed by FDA. USDA additional current powers include product detention and condemnation, records inspection and premarket label approval authority. Moreover, even under S. 2348, USDA would retain authority to require continuous inspection of processing operations where it deemed appropriate, whereas FDA has no explicit authority to employ continuous inspection under any circumstances.

Against this background, we find surprising and unjustified the arguments advanced by some critics of the bill that it is necessary to grant USDA civil penalty authority to offset any reductions in continuous inspection. FDA has no civil penalty authority with respect to non-meat products. We understand that USDA itself is opposed to civil penalty authority for meat and poultry violations. Moreover, S. 2348 would authorize USDA to reduce continuous inspection only on the basis of evidence that a particular processing operation maintains adequate internal controls and is unlikely to produce violative products. In the light of USDA's existing multiple enforcement powers, the meat and poultry processing industry's commendable safety record and the limited scope of S. 2348 there is no justification for granting USDA new enforcement power.

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*/ Comptroller General Report to Congress, "A Better Way For the Department of Agriculture to Inspect Meat and Poultry Processing Plants" (December 9, 1977).

**/ Comptroller's General Report, page 6.

S. 2348 would grant USDA power to determine the frequency of inspection of processing establishments based on (1) the nature and frequency of the processing operations, (2) the adequacy and reliability of an establishment's product monitoring system, and (3) the establishment's history of compliance with inspection requirements. Judged against these factors, many canned meat and poultry operations would warrant reduced inspection. First, the canned meat and poultry industry has an excellent compliance record. Second, as noted, most NFPA members have substantial experience operating under FDA good manufacturing practice regulations, and have developed effective internal audit and quality control procedures. Third, NFPA filed a petition with USDA on September 18, 1981, for a formal regulation prescribing detailed thermal processing requirements for canned meat and poultry products, including container closure examinations, maintenance of heat processing and production records, and deviation correction procedures. Promulgation of this regulation, coupled with reduced inspection of canning operations, would enhance consumer protection by encouraging reliable company-monitored control procedures and by permitting USDA to focus its limited resources on areas of special concern.

Although we support the purpose and concept of S. 2348, there are two aspects of the bill that we believe could be improved. First, we believe that some limit should be imposed on USDA's discretion to determine the frequency of inspections under the bill. As currently drafted, the bill would permit, but not require, USDA to reduce continuous inspection for plants with good compliance records and effective quality control systems. The bill should contain some mechanism to assure that such firms would not be subject to permanent continuous inspection. Similarly, Congress should make clear that the bill is not intended to authorize USDA to require participation in its current total quality control program, or any other specific quality control program, as a prerequisite to reduction of continuous inspection. Adequate individualized company quality control procedures, together with broad USDA good manufacturing practice regulations, should be sufficient to warrant reduced inspection.

Second, NFPA recommends elimination of the provision of the bill that would require a change in the inspection legend for meat products packed in establishments not subject to continuous inspection. Under the bill, meat products packed in plants without continuous inspection would be required to bear the label legend "Prepared in a USDA inspection establishment." Meat and poultry products currently bear the label declaration "USDA inspected and passed." Yet, under present USDA inspection procedures, it is not possible, nor would it be useful, for the agency to inspect every single product. Thus, the current inspection legend has not been literally interpreted, and reductions in the frequency of establishment inspections would not alter the validity of the current legend. Moreover, there is no evidence that consumers are aware of USDA inspection procedures, that they agree on a particular interpretation of the current inspection legend or that they would have any appreciation for the subtle change in the legend that would be required under the bill.

In conclusion, we commend USDA for supporting this legislation and the Subcommittee for providing a forum to discuss it. USDA inspection costs are large, and increasing every year. The current costs of USDA continuous inspection of processed meat and poultry operations alone exceeds seventy million dollars a year, and USDA has estimated that this legislation would save up to forty-two million dollars in the first five years. Moreover, the federal meat and poultry inspection burden is increasing rapidly with the growing number of state inspection programs that are abandoned and revert to Federal control. This bill is an excellent vehicle to provide USDA the flexibility to reduce its inspection costs and to focus its inspection resources in areas where they will do the most good. No other food regulatory agency is required to bear the substantial expenses of continuous inspection. In this era of intractable budget deficits, and with the advances in food processing procedures that I have described, there is no justification for continuing to impose this burden on USDA.

STATEMENT OF ROBERT NISSEN ON BEHALF OF THE NATIONAL MEAT ASSOCIATION

Mr. Chairman and members of the subcommittee, I am Robert Nissen, president of The Nissen Company which is located in Webster City, IA. The Nissen Company produces a full range of meat and poultry luncheon meats. We employ 125 people and have been serving Iowa and surrounding states for more than half a century. Today, I proudly represent the National Meat Association, a national trade association whose coast-to-coast membership includes a significant segment of the nation's most successful meat processors and/or packers. Since February, I have served as chairman of the association's board of directors and I can assure you that S. 2348 has been thoroughly discussed at several board meetings.

The association welcomes this opportunity to express its views on these amendments to the Federal Meat Inspection Act. Accompanying me today are the association's Director of Public Affairs Paul Korody, and General Counsel Edwin Pewett, a member of the Washington law firm of Glassie, Pewett, Dudley, Beebe and Shanks. Both are prepared to help me answer any questions you might have.

The members of this subcommittee are to be congratulated for holding this hearing on this important piece of legislation. Certainly the overall objective of the bill, cutting government expenditures, is to be applauded. The National Meat Association shares President Reagan's enthusiasm for reducing the cost and size of government. Most of our members will agree that there are ways to reduce the amount of inspection. But, I hasten to add, there are good and bad ways to reduce that inspection.

First, let me clarify what I believe is a gross misunderstanding of the association's position on quality control systems in meat processing plants. In some quarters, the erroneous impression exists that this association opposes quality control. Nothing could be further from the truth.

VOLUNTARY VS. MANDATORY

The National Meat Association has never objected to the increased use of quality control procedures individual plant operators have and are voluntarily implementing in their operations. What the association does object to, and let

me underscore this point, is enactment of any legislation that would give the U.S. Department of Agriculture authority to impose mandatory quality control on any plant, regardless of the reasons. We have consistently opposed any USDA attempts to force mandatory quality control on the industry.

Under a quality control program, trained plant personnel verify product uniformity and wholesomness by monitoring strategic production processes. Their records are periodically audited by the U. S. Department of Agriculture.

The role of inspection has shifted from checking every piece of meat to reviewing plants and procedures to guarantee uniform products that meet or exceed the health and safety requirements demanded by federal meat inspection laws. The U. S. meat industry's reputation for producing the world's most wholesome meat products is proof of the current program's effectiveness that combines continuous inspection and quality control procedures.

Every plant has two objectives: First, to produce a wholesome and quality product consumers have confidence in; and second to produce that product at a price consumers will accept and that will return a profit.

Plants that have voluntarily implemented either partial or total quality control programs have done so because it enhanced profitability without jeopardizing product wholesomeness.

But, Mr. Chairman, and let me emphasize this point, at this time, it would not be a profitable venture for every plant to move to quality control. From actual experience and from discussions with other meat processors, both large and small, I can assure you that quality control inspection is not for every plant. For some it is a natural progression and a way to become more competitive while for others it could increase production costs to the point that their products would be priced out of the marketplace.

For example, some modern high-volume operations have the sophisticated monitoring equipment and the trained quality control personnel in place. In such plants implementing a USDA approved quality control program may present

little or no added financial burden. However, for many smaller plants, especially those designed many years ago, switching to a quality control program could require a costly investment in new equipment and personnel qualified to operate it. Coupled with their small production base, such an investment could add to rather than subtract from overhead costs.

It is this economic threat that prompted the National Meat Association, from its earliest discussions, to express severe reservations about this legislation as it is currently drafted. We interpret the language to mean that the USDA Secretary would have unrestricted authority and total discretion to determine the level of inspection for any federally-inspected processing plant in the country. This is totally unacceptable because it would effectively permit the secretary to shift the cost of inspection to processors by imposing mandatory quality control programs.

Taken a step further, this means that if the secretary feels justified, regardless of his reasons, in removing continuous inspection from a plant, management--to stay in business--would have no option but to design and implement a quality control program even if it resulted in higher operating costs.

This legislation would hang the sword of Damocles over the head of every meat processor in the country. If adopted, as written, processors would have no way of knowing when the secretary would decide to cut them off from continuous inspection. That is no way to do business.

There is, however, merit to this legislation. Nobody can quarrel with a goal of reducing government costs. But, to make this legislation practical, a provision must be added that would give plant operators the option of deciding whether they want to remain under continuous inspection or to shift to a total quality control program.

Without such assurance, the meat industry will be left at the secretary's mercy. And, unfortunately, his mercy, by necessity, will be tempered by budget restraints and demands. If today's economic problems are a harbinger of future budgets, the secretary will be forced to continually seek ways to

cut expenses. This bill would allow him to do this by arbitrarily cutting the inspection force and requiring industry to take up the slack by implementing more quality control programs.

The USDA denies it will use this legislation to impose mandatory quality control on the industry. We do not doubt its sincerity. But we're also realistic. Time has a way of eroding original impressions and intentions, especially in times of extreme economic stress where pressure is constantly applied to reduce government costs. Inspection is a large budget item. It is a natural target for cost cutters.

There is also another consideration. What assurance does the meat industry have that future administrations will not see this legislation as an invitation to impose mandatory quality control? Future administrations have not given their word not to take such a step. We sincerely urge you to consider the long-range implications of this legislation.

MEAT INSPECTION LEGEND

There is another aspect of this bill that alarms the meat industry. In recent years the meat industry and its products have suffered from considerable negative publicity and extreme criticism in the media and by various consumer groups.

Among other things, the public this spring heard stories about purported inspection inadequacies. This onslaught of bad news has hurt the meat industry's image, and in all probability, its sales. We fear this legislation could further damage that image and erode consumer confidence.

As now written, the bill would require a separate legend for meat products produced in plants having less than continuous inspection. On those products, it would state that they were "prepared in a USDA inspected plant" while on products produced under continuous inspection it would read "inspected and passed."

The association believes it is extremely important that only one legend be used on all products.

The exact phraseology is not what is most important. What matters most is that there is a consistency so consumers are not confused or do not lose confidence in our products. Anything that does otherwise is a disservice to producers, our industry and to consumers.

By the same token, although this bill does not extend to the legend now authorized for products produced in plants operating under total quality control programs, we totally disagree with this concept because, again, it can mislead consumers into thinking one product is better than the other.

CIVIL PENALTIES

Mr. Chairman, other witnesses may testify today that any reduction in continuous inspection must be counterbalanced by the addition of civil penalties. They fear that without inspectors continually in the plant, meat processors will abandon required plant and production standards. This is absurd. The National Meat Association totally disagrees with this premise and the need for civil penalties.

A meat processor's most important asset is his reputation. Without sustaining consumer confidence in his products, he doesn't stay in business. Jeopardizing that reputation is a foolhardy risk few, if any, processors are willing to take, with or without inspectors looking over their shoulders.

In addition, the meat industry is the most regulated industry in the country. Federal inspectors continually monitor plant and equipment sanitation and product production. When violations are found, if they affect or even potentially affect product wholesomeness, the product is withheld and production is halted until the problems are corrected. Under this legislation, processors would still be required to make certain their plants and production techniques meet all federal requirements.

Shutting down a production line and thereby idling employees that make from $12,000 to $25,000 a year or not releasing product for distribution are very effective ways of making processors adhere to the law. In many instances processors now pay an extreme economic penalty for a minor infraction.

Processors operate on extremely thin profit margins. Halting production, even for a short period of time, can cost a processor thousands of dollars. Believe me, the USDA already has a big stick that gets the meat industry's attention. And in extreme cases, the USDA can withdraw inspection, which puts the plant out of business, or it can file criminal charges against the operator.

There is no need for civil penalties. Such laws will not add to consumer protection. The National Meat Association cannot support any legislation that contains these penalties.

SUMMARY

In conclusion, let me again compliment this subcommittee for its concern on this issue and its efforts to reduce government costs. The National Meat Association, I assure you, shares the current goal of making government more cost effective.

But we also have a responsibility to our great industry and to our members. We cannot endorse any measure--even though it sounds promising or the secretary promises not to abuse his authority--if in any way it could endanger the future financial soundness of any meat processor. We know that total quality control is neither feasible nor economically practical for every processing plant. If it were, there would have been a much greater acceptance of the USDA's total quality control program that has been available since the fall of 1980. As of June 1982, only 64 plants had gone to this program.

It is vital to the continued well being of the industry that any legislation that would grant the secretary the authority to set levels of inspection in meat processing plants carry with it the requirement that plant management have the option of rejecting the secretary's decision and remaining under continuous inspection. It is also most important that the legislation be amended so that one inspection legend will be used on all products whether produced under continuous inspection or a quality control program. And finally, there is no justification for adding civil penalties to this legislation.

With these assurances, the National Meat Association believes this legislation would be in the best interests of all concerned and would wholeheartedly endorse it.

Thank you.

STATEMENT OF ROBERT MIKYTUCK, JR., PRESIDENT, NATIONAL FROZEN PIZZA INSTITUTE

Mr. Chairman, I am Robert Mikytuck, Jr., Vice President and General Manager of Ellio's Pizza of Lodi, New Jersey and President of the National Frozen Pizza Institute. Accompanying me today is Richard L. Frank of the Washington, D.C. law firm of Olsson and Frank, National Frozen Pizza Institute's General Counsel. It is a pleasure to appear before you today on behalf of the National Frozen Pizza Institute's membership to give you our input relative to the Bill S. 2348. The National Frozen Pizza Institute and its members are keenly interested in assuring the American consumer safe and wholesome pizza products, for the simple reason that no self-respecting company can be in business long doing otherwise. At the same time, frozen pizza processors oppose unrealistic and unnecessary government regulations which raise prices without providing consumers a corresponding benefit.

The National Frozen Pizza Institute's membership is composed of companies which manufacture two distinct types of pizza; cheese pizzas and pizzas with cheese and meat toppings. The production of cheese pizzas in the United States falls under the regulatory jurisdiction of the Food and Drug Administration which conducts unannounced, periodic inspections of processing facilities under the authority of the Federal Food, Drug, and Cosmetic Act. Pizzas which contain meat toppings are subject to the U.S. Department of Agriculture (USDA) mandatory continuous inspection program under the Federal Meat Inspection Act. S. 2348 represents an excellent first step towards harmonizing regulation of the frozen pizza industry.

The proposed Bill would amend the Federal Meat Inspection Act to permit the Secretary of Agriculture to determine the frequency and type of USDA inspection conducted at establishments which process "meat food products," including meat-topped pizzas. The Bill would allow the Secretary to determine the frequency and intensity of inspection on a plant-by-plant basis. [This legislation would require the Secretary to take into consideration the nature

and frequency of the establishment's processing operations, the adequacy of its product monitoring system, its prior history of compliance, and such other factors as the Secretary may deem appropriate in determining the type of inspection appropriate for the plant.] Additionally, the legislation amends the label legend provisions by requiring the alternative legend phrase "Prepared in a USDA Inspected Establishment" instead of "Inspected and Passed" for plants operating under less than continuous inspection.

The proposed legislation is a recognition of and a response to the changing trends in meat processing over the years. Advancements in food processing and handling technology have obviated the need for continuous inspection in many further processing establishments, and in particular, frozen pizza plants. The legislation also responds to repeated recommendations from the General Accounting Office and industry for USDA to change its inspection approach, type and frequency.

The National Frozen Pizza Institute's membership strongly supports many of the concepts embodied in S. 2348. We support the provisions which allow the Secretary to exempt from continuous inspection those further processors who have demonstrated the ability to produce safe and wholesome products. Meat-topped pizza, more than any other product category, should be considered in our collective, honest opinion for less-intensive inspection. The reasons for our conclusion are as follows:

1. Today many pizza manufacturers process both cheese and meat-topped pizzas in the same facility. The cheese pizza manufacturing line is subject to periodic inspections by the Food and Drug Administration (e.g., once a year), and by the States' Department of Health (e.g., once or twice a year), while the meat pizza manufacturing line is subject to the mandatory continuous inspection of the Department of Agriculture. Such an overlap in inspectional authority is costly overregulation by the government and in dire need of reform. Indeed, at a recent meeting of the Association of Food and Drug Officials, Food and Safety Inspection Service Administrator, Dr. Donald L. Houston, announced that USDA favored

the transfer of regulatory responsibility of "marginal" meat food products, such as meat-topped pizzas, to FDA in an effort to make more consistent the regulation of this industry. The National Frozen Pizza Institute supports the concept of consistent and uniform inspection of both the cheese and meat pizza segments of the industry.

2. Continuous inspection of meat-topped pizza manufacturing facilities is costly to both industry and the government and does not provide a clear corresponding benefit to the consumer. Under USDA's continuous inspection program each manufacturer must obtain facility, equipment, and label approvals, total or partial quality control program approvals, pay overtime charges, and provide special facilities and equipment for the inspector. There is no evidence that these added regulatory costs produce a pizza more wholesome than one produced under the FDA and States' Department of Health periodic inspection programs. Additionally, these unnecessary, added costs raise the price of the product that must be borne by the ultimate consumer.

3. Many meat-topped pizza manufacturers utilize processed (precooked) meat on their products which has been USDA inspected and labeled -- pepperoni, sausage, hamburger, bacon, and Canadian bacon. Those processors utilizing precooked and approved meat ingredients, merely slice and/or apply the processed meat to the pizza product. The only "further" processing which occurs, is the freezing and packaging of the pizza product. The use of precooked and approved meat ingredients on the frozen pizza raises no public health or safety concerns, proof of which is the fact that no frozen cheese or meat-topped pizza has ever been involved in any type of a recall in recent memory. This type of processing is no different than that which occurs for frozen cheese pizzas which have been successfully regulated over the years by FDA under its periodic inspection program. Thus, there is no public health or safety reason to require more regulation for meat-topped pizza manufacturers utilizing precooked and pre-approved ingredients under USDA's program than for cheese pizza manufacturers under FDA's program.

4. Some meat-topped frozen pizza manufacturers receive USDA inspected raw meat from licensed establishments and perform a certain degree of meat grinding and/or cooking on the premises prior to application to the pizza. In this situation, the legislation allows the Secretary to exempt these further processors from continuous inspection based upon the compliance history of the firm and adequacy of the quality control program implemented. Many National Frozen Pizza Institute members currently have in place total or partial quality control programs which assure a safe and wholesome product. Accordingly, many National Frozen Pizza Institute members should be eligible for less intensive inspection under the Bill.

Mr. Chairman, the reasons I have just outlined demonstrate that the legislation before you will result in less costly regulation of further processing facilities without compromising the safety or wholesomeness of the product. This legislation should also result in savings to the manufacturer, consumer, and government alike. However, we do have several concerns with the Bill which we would like to bring to your attention at this time.

Section 102(2) of the Bill allows the Secretary to consider the adequacy and reliability of an establishment's product monitoring system in determining the type and frequency of inspection. While the National Frozen Pizza Institute is in favor of the use of certain quality control systems in further meat processing plants, this legislation should not be interpreted to permit the Department to mandate total quality control programs as a condition precedent to less than continuous inspection. Rather, in those facilities where there are demonstrable safety concerns, the Secretary should determine the <u>degree</u> of quality control necessary for the production of a safe and wholesome product without continuous inspection. Where such concerns do not exist, quality control should not be required.

The National Frozen Pizza Institute <u>opposes</u> the two proposed labeling legends. The "Inspected and Passed" legend now in use certifies that a product has been produced in conformance with all applicable meat and poultry inspection laws and regulations.

Evidently, this legend would still be used in facilities subject to continuous inspection. The alternative legend proposed in this legislation "Prepared in a USDA Inspected Establishment" would appear on the label of products produced in a facility not subject to continuous inspection. This dichotomy would give the impression that the non-continuous inspected product is somewhat inferior to the "Inspected and Passed" product. Because any exemption from continuous inspection would be conditioned upon a conclusion by the Secretary that there are no safety or health concerns which warrant the intensive continuous inspection program, there should be no safety or health concerns warranting different types of legends. In addition, distinctions in the legends may result in advertising and marketing techniques to exploit one product over the other. Finally, it should be noted that a change in the inspection legend will require a plate change, frequently costing up to $10,000 or more per plate. For companies which produce a variety of products, the costs associated with labeling changes could be enormous. Thus, we recommend that only one legend be used for all meat products subject to USDA's jurisdiction.

It has also come to our attention that certain groups have argued that the proposed legislation would dramatically weaken consumer protection provided by USDA mandatory continuous inspection in further processing facilities. These groups have further argued that, at a minimum, administratively imposed civil penalties should be included for violations of the Federal Meat Inspection Act. The National Frozen Pizza Institute believes that the current legislation will not weaken consumer protection to any degree and, in any event, the existing penalty and enforcement provisions in the Federal Meat Inspection Act obviate any need for civil penalties. For example, consider the following provisions currently in effect and enforced by USDA:

1. 21 U.S.C. §671-Withdrawal of Inspection. This provision authorizes USDA to withdraw inspection from any establishment if it is determined that the firm "is unfit to engage in any business requiring inspection." In addition, USDA can withdraw inspection if one of the firm's principals is convicted of any felony related to the preparation, handling, or distribution of unwholesome, mis-

labeled, or deceptively packaged food products.

2. 21 U.S.C. §672-Administrative Detention. This provision authorizes USDA to administratively detain for up to twenty (20) days any meat food product believed to be adulterated or misbranded.

3. 21 U.S.C. §673-Seizure and Condemnation. This provision authorizes USDA to seize and/or condemn allegedly adulterated or misbranded meat food products after they have left the official establishment.

4. 21 U.S.C. §674-Injunction. This provision authorizes USDA to seek an injunction from a Federal court preventing the establishment from shipping adulterated or misbranded meat food products.

5. 21 U.S.C. §676-Criminal Penalties. This provision authorizes the Secretary to impose criminal penalties in cases when establishment and/or principals have violated the Act. A felony conviction carries a penalty of up to three (3) years imprisonment and/or a $10,000 fine for each violation.

Accordingly, it is apparent from the plethora of enforcement options and penalties which the Department can impose either singularly or cumulatively against the manufacturer of unwholesome or unsafe meat food products that the addition of a civil penalty provision would neither advance consumer protection nor act as a real deterrent.

In sum, the National Frozen Pizza Institute generally supports S. 2348 which should result in cost efficiencies for industry, government, and the consumer. If enacted and properly implemented, inspection costs, particularly overtime costs, should be reduced without compromising consumer protection. In addition, this legislation would allow the Secretary to shift the Department's inspectional resources to those areas where there truly exists human safety or health concerns.

Thank you very much for your time and consideration and I will be glad to answer any questions the Committee may have.

STATEMENT OF LAWRENCE E. HICKS, ASSOCIATE GENERAL COUNSEL, THOMAS J. LIPTON, INC., ENGLEWOOD CLIFFS, N.J.

Mr. Chairman, I am Lawrence E. Hicks, Associate General Counsel for Thomas J. Lipton, Inc., a company headquartered in Englewood Cliffs, New Jersey. It is a pleasure to appear before you and the distinguished Committee today on behalf of my company to present our views with respect to S. 2348.

The Lipton Company is a manufacturer and distributor of a wide variety of consumer food products including tea, soups, salad dressings, noodles, gelatins, and ice cream. For many years, Lipton has been the leading producer of dehydrated chicken soup products, the production and labeling of which are subject to the provisions of the Poultry Products Inspection Act and the jurisdiction of the U.S. Department of Agriculture. These dehydrated chicken soup products represent approximately 4% of our total sales. It is in connection with the production and labeling of this small segment of the Lipton product line that we offer the following comments.

S. 2348 would amend the Poultry Products Inspection Act to permit the Secretary of Agriculture to determine the frequency and intensity of inspection required at facilities further processing poultry products. As was recognized by Senator Helms in his statement accompanying the legislation, the principal purpose of S. 2348 is to permit changes in further processing inspection which recognize the significant technological advancements that have occurred in the food processing industry over the past four decades. Lipton is proud of the advancements it has made in modernizing its facilities and processing techniques as well as in developing and implementing sophisticated quality controls to ensure production of only the highest quality consumer food products. Evidence of this is that during the past twelve years since our present Quality Control/Quality Assurance program was adopted, there has not been a single product integrity failure in any Lipton soup product. The excellent compliance record of Lipton demonstrates the success of these programs and has resulted in

Lipton production facilities receiving the highest quality control rating given by USDA.

Lipton supports the intent and purpose of S. 2348 which would grant the Secretary flexibility in determining the intensity and frequency of inspection required in a further processing facility. Lipton also supports the three criteria identified in the legislation for determining the intensity of inspection needed. Currently, Lipton processes its chicken soup products in two facilities, one in Santa Cruz, California and the other in Flemington, New Jersey. Both of these plants are subject to USDA inspection; the Santa Cruz plant has 1 inspector and the Flemington plant has 2 inspectors. During 1981, Lipton was required to pay $12,233 in overtime charges for its USDA inspectors. In addition, pursuant to USDA regulations, Lipton is required to provide separate facilities for the inspector, obtain facility and equipment approvals from USDA, and to submit each and every label and label modification, as well as all formulas, to USDA for prior review and approval. These activities are costly, and contribute to food price inflation.

It should be noted that Lipton processes a full range of products in these two plants, most of which are not subject to USDA jurisdiction. These plants are subject to dual inspection by the U.S. Department of Agriculture and by the Food and Drug Administration. FDA inspects food processing establishments on the average of once a year and does not require the submission of labels and formulas. In addition, Lipton's plants are inspected by health officials from the State of California and the State of New Jersey.

Lipton does not believe that the continuous inspection program currently operated by USDA is needed to ensure the quality and integrity of its products. The only reason that Lipton's plants are subject to USDA inspection is because Lipton's chicken soup products are considered "poultry products" as that term is defined in the Poultry Products Inspection Act and the implementing regulations. The poultry regulations define "poultry products" and "poultry food product" as "any product capable of use as human food

which is made in part from any poultry carcass or part thereof ...". 9 C.F.R. Section 381.1(b)(41). Specifically exempted from the definition of "poultry products" are those products which contain less than 2% cooked poultry meat. 9 C.F.R. Section 381.15(a). Because Lipton's chicken soup products contain more than 2% cooked chicken, these products are amenable to the Poultry Products Inspection Act. Thus, like most other chicken soups, Lipton's products marginally qualify under the definition of "poultry product".

Due to the nature of its operation, the type of poultry ingredients utilized, and the processing applied to those ingredients, Lipton believes it should be a prime candidate for operating with less than continuous inspection. With only minor exceptions, Lipton purchases previously inspected and labeled dehydrated chicken in diced or cubed form from a supplier. Because chicken is received in dehydrated form, it has minimal potential for microbial contamination. Lipton's handling of the poultry ingredient is minimal, generally limited to simply mixing the dehydrated chicken with the other ingredients of the soup and packaging the end product in a paper/foil container. Clearly, this type of limited further processing poses little or no risk of product adulteration and certainly no greater risk than is normally present for any of the other Lipton products manufactured at the same facility.

To ensure the quality and acceptability of its products, Lipton has implemented a sophisticated quality control program. It has both a Quality Assurance and Quality Control staff, including a full time staff at each production facility as well as at corporate headquarters. The interest of the company in manufacturing wholesome food is at least equal to the concern of the government. During the past 30 years that Lipton has been producing dehydrated chicken soup, its production facilities have never been closed down due to insanitary conditions. This level of interest in product quality would continue even in the absence of USDA inspection, since it is of paramount importance to Thomas J.

Lipton, Inc. that consumers of our products know that they are buying quality. For this reason, one important point in the Bill should be clarified. The proposed legislation identifies three factors to be considered before changing from continuous to periodic inspection. Process control (not total quality control) is one factor. Either the Bill itself, or the legislative history, should clearly state that a USDA approved total quality control program is not a condition for less than continuous inspection. If the establishment's history of compliance with inspection requirements continues to be adequate, a USDA total quality control program is not necessary.

I greatly appreciate this opportunity to present the views of Thomas J. Lipton, Inc.

STATEMENT OF S. F. RIEPMA, REPRESENTING THE NATIONAL ASSOCIATION OF MARGARINE MANUFACTURERS

My name is S. F. Riepma. On behalf of the members of the National Association of Margarine Manufacturers, of which I am president, I thank you for this opportunity to comment on S. 2348.

Margarine made with animal fat has been under U.S. Department of Agriculture regulation for nearly seventy-five years. During the last half century, however, this type of product has declined. Only 5 percent of American margarine is under the Department's regulation.. The preponderant production is vegetable margarine, under the regulation of the Food and Drug Administration. Each agency maintains its own margarine standard and requirements for this product, an unnecessary duplication of government activity.

H.R. 6062 would amend the Federal Meat Inspection Act to permit the Secretary of Agriculture to determine the manner and frequency of examination and inspection conducted at establishments processing meat and meat products "as the Secretary deems necessary and in accordance with regulations promulgated under this Act. S. 2348, if enacted, would permit the Secretary to determine level and frequency of inspection on a plant-by-plant basis after considering three factors:

1. The nature and frequency of the establishment's processing operation,
2. The adequacy and reliability of an establishment's product monitoring system, and
3. The establishment's history of compliance with inspection requirements, and such other factors as the Secretary may deem appropriate.

We endorse this proposal. It recognizes, as far as margarine is concerned, the progressive state of food technology and quality assurance in margarine production. It affirms the "continuous surveillance system" existing since 1972 whereby monitoring or patrol inspection may be an alternate for continuous inspection for qualifying margarine plants. Of twelve

major animal fat margarine establishments surveyed last year, eight were qualified for this system--a precedent for the success of H.R. 6062 in our industry.

While the CSIP was viewed initially as a step forward in this area of continuous meat inspection, the degree of regulation under it unnecessarily hinders production and raises costs. For exampie, under the CSIP, manufacturers are not permitted to unseal the carloads of animal fats and oils. This limits scheduling flexibility and production efficiency. Because these animal fat ingredients are previously stamped as wholesome by the Department at the rendering facility prior to shipment to the margarine manufacturer, there is no added consumer protection benefit by requiring the "Official" breaking of the seal by the Department inspector at the margarine facility. The losses in flexibility, production costs, and overtime charges are ultimately borne by the consumer.

NAMM believes that it is unnecessary regulation to have the patrol and continuous inspection programs for animal fat establishments when compositional and manufacturing processes are simple and there is no evidence that such products present public health or safety concerns. The current Department continuous inspection program tends to raise the cost of animal fat margarine to the consumer. It decreases manpower and budgetary allocations of the Department without providing a corresponding consumer benefit.

The bill in our judgment does not go far enough concerning animal fat margarine. I strongly recommend to the Committee that the Meat Inspection Act be amended to make it clear that animal fat margarine is not a "meat food product". That would unify all margarine regulation in the Food and Drug Administration.

Many years ago animal fat margarine was a major product manufactured principally in connection with meat processing. That is no longer the case. Today it is a food like vegetable oil mar-

garine in every respect except the type of fat used. It is made in plants far removed from meat processing. Its characteristic component, animal fat, is itself a refined product several steps removed from the slaughtering, curing, and other aspects of meat and meat product production. However, Department regulation has gone on. There are very good reasons for ending it.

Meanwhile the Act's definition of "meat food product" exempts those foods which "historically have not been considered by consumers as products of the meat food industry". It can be reasonably argued that for a long time consumers have not, and with justification, viewed margarine as a product of the meat food industry.

Under the Meat Inspection Act, animal fat margarine is a "meat food product," but in real life it is not meat or meat products as those are perceived by the ordinary person. It is simply another type of margarine. Its mode of production duplicates that of vegetable margarine and is done often in the same plant. Its Standard duplicates, as much as possible under the Act, that of FDA for vegetable margarine. Its labeling and other requirements are very similar. The Department has sought to remove all the distinctions it can between the two. It has done so in accordance with the general instruction given in Section 7(c) of the Act, for closest possible consistency between the Department's and the Food and Drug Administration's regulations, in the interest of commonsense and maximum uniformity. Currently it is proposing a new margarine standard, in order to bring it as close as feasible to that of FDA.

The existence of two regulatory agencies and systems for margarine is outmoded. It is bad public policy and unnecessary duplication. I believe the Department itself has no objection. In a recent speech before the Association of Food and Drug Officials, Food Safety and Inspection Service Administrator Dr. Donald L. Houston stated that the Department favored the transfer of regulatory responsibility of marginal meat products, such as margarine, to FDA.

We therefore respectfully request that S. 2348 be amended to put all margarine under a unified regulatory system within the existing requirements of the Food, Drug and Cosmetic Act. This can be accomplished simply by adding at the end of the first sentence of paragraph (j), Section 1 of the Federal Meat Inspection Act (34 Stat. 1260) the words, "Provided that margarine containing animal fat shall not be deemed to be a meat food product"; and repealing Section 1, subsection (m)(9).

That action would be consonant with the aim of S. 2348 to simplify and reduce inspection wherever appropriate, subject to the public interest, inspection costs and duplication. The amendment gives the animal fat margarine industry greater flexibility in operation scheduling and savings in overtime charges. Furthermore, the entire margarine industry would be regulated under a similar regulatory scheme with similar regulatory rules. This system would reflect resultant savings to consumers. It would result in manpower savings to the Department enabling it more efficiently to assign its inspectors to areas where human health and safety are truly a concern.

Consumer protection would not be compromised. All margarine would be under the FDA, which has successfully regulated most margarine production with a periodic inspection system for many years. We do not desire any diminution of needed inspection and control. We believe the FDA system has demonstrated its value.

Nor do we propose any change that would be injurious to the production and sale of butter. That is an entirely different subject area, not affected by S. 2348 or our proposal.

Thank you for your consideration of this testimony and our proposal.

STATEMENT OF CAROL TUCKER FOREMAN, CONSUMER FEDERATION OF AMERICA

Mr. Chairman, I am Carol Tucker Foreman, Food and Nutrition Adviser to Consumer Federation of America, the nation's largest consumer organization. From 1977 through 1980, I served as Assistant Secretary for Food and Consumer Services in the U.S. Department of Agriculture and had responsibility for the administration of the nation's meat, poultry and egg products inspection programs.

The first Federal Meat Inspection act was passed in 1906. It was a reaction to revelations of filth in meat packing houses and was designed to protect consumers from adulterated and contaminated meat products. Every time the Congress has amended the law over the years, it has reinforced the primacy of that initial commitment to public health and safety and each time Congress has amended the law, it has been to strengthen consumer protection. Today both the Meat Inspection Act and the Poultry Products Inspection Act begin by declaring

> "It is essential in the public interest that the health and welfare of consumers be protected by assuring that meat (poultry) products distributed to them are wholesome, not adulterated, and properly marked, labeled and packaged. Unwholesome, adulterated or misbranded meat (poultry) products . . . are injurious to the public welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged meat products, and result in sundry losses to meat (poultry) producers and processors, as well as injury to consumers."

As a result of these laws, the United States has the cleanest, healthiest, meat supply in the world and the meat and poultry industries have grown and prospered. As Congress rightly assumed, the industry as well as the public have benefitted from the very high standards of the federal meat and poultry inspection laws. Congress and the Administration should consider carefully before turning their backs on 76 years of success.

While it has been overwhelmingly successful, serious problems do confront the meat and poultry inspection system. The level of public health protection has never been as good as it might be. As recently as two months ago, newspapers carried stories of meat contaminated with fecal matter and other adulterants being approved for sale.

The growth and increasing sophistication and diversity of the meat and poultry industry has led to substantial increases in the cost of the inspection program which are simply not tolerable. It is important to find new ways to perform inspection functions.

When the law was originally passed and even in its most recent revision, command and control inspection procedures were still in vogue. For several years, other health and safety regulatory programs have attempted to be more flexible in attaining their goals. Rather than requiring continuous onsite inspection which requires a business to follow a rigid checklist of procedures, there has been a movement toward the setting of a standard to be attained and allowing a business to meet that standard in the easiest and least expensive way for that plant. There has been, in addition, an increasing use of modern scien-

tific methods and equipment to reduce the number of judgments an individual inspector makes. There have been attempts to reduce the number and possibility of arbitrary judgments. The meat and poultry inspection laws however do not permit the use of these more flexible and sophisticated methods.

The incidence of bribery and extortion in meat and poultry inspection continues to be a serious problem for the system, for the industry and for the public. It is unlikely to improve substantially until the number of individual judgments can be reduced and replaced with scientifically and technically quantifiable guidelines.

Finally, the meat and poultry inspection system must now deal with a rather different set of problems than those it faced a few years ago. As the use of chemicals in farming and food processing has proliferated, the problem of meat contaminated with chemical residues has increased. Many of these chemicals have been found to cause cancer or birth defects. They are not easily detectable and the inspection service has not yet been able to keep residue contaminated meat and poultry from reaching the public.

While retaining the basic commitment to a high level of public health protection that has been the historical characteristic of the law, Congress should act to resolve these problems.

CARTER ADMINISTRATION PROPOSALS TO IMPROVE AND MODERNIZE INSPECTION

The legislation submitted to you by the Administration is not the first attempt to modernize meat and poultry inspection procedures and reduce costs. Throughout the decade of the 70's, meat inspection costs rose dramatically as the amount of meat and poultry processed grew rapidly, as processing became more sophisticated and as states opted out of running their own inspection programs. In 1976, the Office of Management and Budget refused to approve USDA's budget request until Secretary Butz agreed to contract with a private consultant to search for potential savings in the inspection program.

The firm of Booz-Allen and Hamilton was retained and instructed to find ways to modernize the system, cut costs and maintain the same level of consumer protection. In 1977, Booz-Allen submitted to the Department a three volume report, Study of the Federal Meat and Poultry Inspection System, with recommendations for changes in slaughter and processing inspection and field and central office structures and staffing. One of their suggestions was to adopt a quality control program to take the place of continuous inspection in meat and poultry processing.

Later in 1977, the GAO produced a study, A Better Way For The Department of Agriculture to Inspect Meat and Poultry Processing Plants, which pointed out several weaknesses in the existing system and made recommendations for changes. The reports had substantial merit. However, some of the suggestions were simply unworkable and the Booz-Allen report assumed that the level of consumer protection was adequate across the board. We studied both of these reports, chose what we thought was best from each, and relied upon the expertise of the dedicated public servants within the meat inspection program to devise a proposal that would save money and, by reinvestment of some portion of those savings, strengthen weak areas in the system.

In 1978 USDA published Strengthening Meat and Poultry Inspection, which proposed, among other things, speeding poultry

post mortem inspection by modifying traditional methods and then moving as quickly as possible to either hands-off inspection, or a system of flock inspection, or some combination of the three. Speeding poultry slaughter lines saved government about $3 million in the first year and also provided savings to the industry. These savings continue to grow. However, the greatest savings, those from flock rather than individual inspection, will require Congressional action. Congress should urge the Department to speed flock inspection research and testing and be prepared to amend the law to permit its use.

In addition, the USDA report recommended a voluntary quality control program in meat and poultry processing inspection. This was implemented in September 1980, and by April 30, 1982 had been implemented by 54 plants. If extended through the industry, has a major cost savings potential for both government and industry.

Finally, the report proposed substantial improvements in and expansion of testing for chemical residues in meat and poultry products.

In addition to these proposals, the USDA, between 1977 and 1980, attempted to strengthen the compliance program of the meat inspection system and to find new ways to deal with violations of the meat and poultry inspection laws. Recommendations requiring legislative action were submitted to Congress as the proposed Food Safety & Quality Amendments of 1980.

That proposal provided the Secretary of Agriculture with the authority to quarantine animals if he believes they may contain illegal residue levels, to withdraw inspection services under certain additional conditions, to levy civil penalties for certain violations of the law and to provide consistent standards and penalties for bribery.

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Congress did not act on that proposal and it was not resubmitted to this Congress. Instead the Reagan Administration has proposed legislation that will amend the meat, poultry and egg products inspection acts to authorize the Secretary of Agriculture to determine the degree of inspection to be conducted in meat, poultry and egg processing plants. There is much to be said for the concept of less than continuous inspection in meat and poultry processing if it is done with apprpriate controls. The legislation before you today does not have such controls and would almost unquestionably lead to a diminution of consumer protection.

Title I, Section 102 suggests

> "That for the purposes hereinbefore set forth, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of meat food products prepared for commerce in any slaughtering, meat canning, salting, packing, rendering, or similar establishment. Such examination and inspection shall be conducted in such manner and with such frequency as the Secretary deems necessary and in accordance with regulations promulgated under this Act, based on consideration of factors which shall include, (1) the nature and frequency of the establishment's processing operations,

> (2) the adequacy and reliability of an establishment's product monitoring system, and (3) the establishment's history of compliance with inspection requirements, and such other factors as the Secretary may deem appropriate. All such products found to be not adulterated shall be marked, stamped, tagged, or labeled as "Prepared in a USDA inspected establishment"; and all such products found to be adulterated shall be marked, stamped, tagged, or labeled as "Condemned" and all such condemned products shall be destroyed for human food purposes, as hereinbefore provided. The Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products. For the purposes of any examination and inspection, said inspectors shall have access at all times, by day or night, whether the establishment be operated or not, to every part of the establishment."

The proposal is not acceptable for a number of reasons. It is excessively vague. It's grant of discretionary power to the Secretary is broad, non-specific and lacks minimum Congressionally mandated standards. Specifically, the first sentence of Section 102 appears to leave open the possibility that the Secretary might extend less than continuous inspection to some operations that are considered to be slaughter, not processing. If there are to be different levels of inspection for slaughter and processing, Congress should specify where slaughter stops and processing begins.

Section 102 also attempts to outline boundaries of the Secretary's discretion in determining levels of inspection. The existing language, however, is not sufficient.

- o In Part (1) there is no definition of the words nature and frequency.

Congress should provide guidance to the Department on those processing operations that are particularly susceptible to very serious adulteration and perhaps make clear that some types of products are not suitable for non-continuous inspection.

- o In Part (2) there is no standard for what constitutes an adequate and reliable product monitoring system.

Congress should specify what minimum standards are for such a system. For example, an adequate product monitoring system will define organizational relationships between the production manager and the quality control manager.

The quality control manager should have authority to stop production until quality control requirements are met. There should be minimum standards for employment as a quality control manager. As proposed, a convicted felon might be employed in this very sensitive position. An adequate system will specify critical processing points such as time and temperature controls. There should be standards for notification of the government and the public if a product monitoring system is breached. The basis for all of these standards exist within the USDA quality control regulations, but Congress should codify minimum standards and give the Secretary authority to go beyond those if he desires.

o In part (3) it is stated that the Secretary shall base inspection intensity on the establishment's history of compliance.

However, several actions have been taken to limit the effectiveness of the compliance system which must play a major role in the new program. From 1978 until 1981 there was a Deputy Administrator for Compliance who answered directly to the Administrator. It is essential for the Compliance staff to have both status and some degree of independence if it is to be effective.

Independence and authority to act are especially important to the program review section of the Compliance staff. The program review group travels the country assessing both the compliance level of plants and the adequacy of the meat inspection staff. It inspects the inspectors as well as meat and poultry plants. The Program Review staff previously ranked plants on a 1 to 4 basis with 1 or 2 rating reflecting an unacceptable level of compliance with meat and poultry requirements and indicating that it was possible for contaminated products to leave that plant. Plants in the number 2 category were referred to as problem plants and those found to be in the number 1 category after repeated visits and warnings were categorized as "chronic problem plants". These plants were consistently operating at a level that could result in production of tainted product. It was believed then that the public should know of this and, therefore, the names of chronic problem plants were released to the press and the Department took steps to withdraw inspection from them.

The compliance staff was not popular with the industry nor with their colleagues and that was appropriate to their role.

Today, the compliance program has been compromised. The position of Deputy Administrator has been abolished and the compliance staff no longer has direct access to the Administrator.

The program review staff no longer keeps a list of problem and chronic problem plants and their review system has been altered so that they do not visit the worst plants as often as before.

The list of plants falling below acceptable standards is no longer made public. No effort is made to withdraw inspection from them.

After a Kansas City Times reporter used information contained in program review reports to write a series of stories about adulterated and mislabeled meat coming from approved plants, the Department announced it would no longer release those reports under the Freedom of Information Act.

The Reagan Administration has sent you a bill asking that Congress and the public vest trust in a compliance system set by a Secretary who has undercut that system.

In addition, the Department has now instituted a procedure that allows, under some circumstances, a company to join with the Department in determining whether to announce a recall action. They have asked the public to trust the industry to police itself but act as though there is something to hide from the public.

Given the fate of the compliance staff and other actions taken by the Administration to reduce standards it is questionable whether the public should trust the Secretary to administer equitably these open-ended grants of power at the end of part

(3) which allows him to consider any other factors . . . (he) may deem appropriate. In establishing a quality control system, he might interpret such language as permission to consider the economic pressure of the recession and allow plants or increase the amount of water or fat in processed meat.

There are several other vague and inadequate provisions in this section which Congress should not accept in present form. Under the present system an inspector oversees the affixing of stamps that mark product either wholesome or adulterated. Under the new proposal these stamps would be under the control of plant management and used at their discretion. Congress should require that a specific employee be designated responsible for this function and be bonded and should establish criminal penalties for misuse of the inspection stamp.

The bill provides that the Secretary may remove inspectors from plants that fail to destroy condemned meat products. Congress should not grant the Secretary discretionary powers in this area. The public must be assured that any attempt to pass adulterated product will be dealt with swiftly and surely. May should be changed to shall.

Finally, section 102 provides "For the purposes of any examination and inspection, said inspectors shall have access at all times, by day or night . . . to every part of the establishment." Because the integrity of a quality control system is primarily dependent upon records, this provision should be expanded to authorize specifically access to books and records and authority to interview individuals.

ABSENCE OF APPROPRIATE PENALTIES FOR VIOLATION OF LAW

Mr. Chairman, this legislation makes no provision for penalizing those who violate the public trust assumed in operation of a quality control system. If non-continuous inspection is approved, inspectors will no longer be in the plant to prevent violations. The temptation to cheat will be ever present. Everyone, plant operators and the public, must be assured that breach of public trust will be met with strong and painful action. The Department will argue that it already has both power to invoke criminal penalties and ultimately to withdraw inspection. The ineffectiveness of these penalties is legendary. The 1978 USDA report on strengthening meat and poultry inspection stated

> "Taking action to withdraw inspection is permitted when a responsible official of the plant has committed certain criminal actions; when the plant fails to destroy condemned product; or when sanitary conditions are such that product is adulterated. The purpose of the withdrawal provision is to stop the sale of meat and poultry products by firms which have clearly demonstrated an unwillingness to comply with the law. The law provides that plants have a right to judicial hearing prior to withdrawal of inspection. These hearings have tended to be protracted, and this has effectively negated the purpose of the withdrawal provisions.
>
> "As an example, several years ago, the Department initiated action to withdraw inspection from over 20 firms on the West Coast on the basis that responsible company officials had been convicted of bribing Federal meat graders. The Department believed that

company officials convicted of bribery were not fit to engage in the food business, and fearful that the public trust would again be betrayed, sought to withdraw inspection. It soon became evident that court hearings and appeals could extend the withdrawal process into years and deny any opportunity for timely action. As a result, the Department negotiated an agreement with those firms which "isolated" convicted officials from any further contact with USDA employees. While this may have had some beneficial effect, it obviously did not remove from the food business those individuals who had demonstrated a clear unwillingness to comply with the law.

"Criminal penalties are seldom applied since only a small percentage of the cases recommended for prosecution by FSQS are successfully prosecuted. The decision to take action on a case developed by FSQS rests with USDA's office of General Counsel and then the Department of Justice. In 1977, FSQS recommended prosecution on 90 cases of alleged criminal activity. During the same period, however, only 26 cases were accepted and successfully prosecuted by the Department of Justice. Since criminal prosecution has rarely been successful, FSQS has had to resort to the issuance of letters of warning. Letters were issued to 1,047 firms in 1977, putting them on notice that they had violated the law. The value of these letters as a deterrent to further illegal acts is questionable."

With inspectors constantly on the premises the lack of effective penalties has not been insurmountable. When an inspector finds a problem he simply stops production until the problem is remedied. Therefore, it is not often necessary to invoke more severe penalties. But the existing penalties are inappropriate for a scheme that relies on industry self-monitoring.

The Booz-Allen and Hamilton study stated

"While these (penalty authorities) appear to provide a wide range of possible actions, in actual practice, this is not the case. A broader array of available enforcement actions would be needed under a (quality control) monitoring approach, and . . . economic deterrents would be the most effective approach even though opposition from the industry can be expected."

"Current deterrent actions by USDA are limited in scope, with the bulk of the enforcement directed at the product, which may or may not have an indirect deterrent effect on the plant management. Formal penalty procedures usually involve lengthy administrative or judicial actions.

"Most infractions are now handled through 'corrective action,' which involves the inspector working with plant management to bring about correction. While the plant may suffer some holdup in production, the real penalty falls mainly on the inspection service

through extra investment of inspector time.

-- Chronically uncooperative plan managements know that their penalty, even with repeated lapses, is usually only some slowing of production while those deficiencies the inspector is able to observe are being corrected.

"While withdrawal or refusal of inspection is authorized, subject to procedural rules, the system is time-consuming.

-- For example, of the 35 withdrawal actions initiated from 1974 through 1976 under Section 401 of the FMIA (conviction of plant official on charge of mishandling foods), only three have been closed.

-- Most of the others are pending closure due to a provision in Section 401 that the affected party can appeal USDA's decision to the courts.

-- During the 4 years from 1973 through 1976, there were 45 convictions in U.S. courts for violations of inspection laws.

-- With more than 7,000 plants under Federal inspection, these results indicate that completion of formal penalty actions is infrequent.

"A wider range of penalties for non-compliance is needed and is possible, particularly under a system involving structured in-plant quality control systems with specific inspection monitoring procedures:

The General Accounting Office also endorsed new penalties stating

"the authority to require of plant managements to develop and carry out adequate, reliable quality-control systems should be coupled with authority for the Service to apply strong penalties or sanctions when plant managements fail to carry out their responsibilities under these systems. The penalties must by necessity be economic deterrents, with severity far exceeding possible economic gains. Authority to withdraw inspection or impose civil penalties of up to $100,000 for failing to take appropriate action when the quality-control system identifies a deficiency or for failing to comply with inspection requirements would, in our opinion, be sufficient economic deterrents."

The 1978 USDA report made clear that for quality-control to be successful

"strengthened penalty provisions of two kinds will be needed. Plants which fail to meet inspection requirements, including failures to take action when their own quality control systems show an out-of-control situation, would be subjected to civil penalties greater than any hoped for economic gain that might

> be derived from cheating. While the actual level of penalties imposed will depend upon the situation, FSQS believes the maximum should not be less than $100,000, and the minimum not less than the expected sale value of the lot of product in question, in order that a deterrent effect may be achieved over persons who may be prone to disregard the law. In addition, the privilege to continue operating should be withdrawn from chronic violators of the inspection acts and regulations, including regulations which mandate quality control systems. These added penalty provisions, when combined with the other three elements, will provide FSQS with the necessary authority for better, yet less costly, control over further processed meat and poultry products."

Congress should consider a system of graduated penalties for violation of quality control procedures and specify these in law. A first violation or a minor violation might be penalized by increasing the intensity of inspection for a certain period to make sure that problems leading to the violation have been worked out and requiring the plant to pay for the increased cost of inspection.

Booz, Allen & Hamilton endorsed this type of penalty, stating:

> "A basis already exists for development of a system which would require an offending plant to pay for extra inspector time beyond that which would be required if the plant was operating in compliance. The work measurement system used by the inspection service already takes into account, to some extent, extra work load for an inspector in a plant with uncooperative management.

Presumably, meat processing plants will save money by instituting quality control systems. They will be able to operate in a way that is most efficient for their needs and be free of nitpicking government command and control regulation. If a plant is required to pick up the increased inspection costs that result from a violation of the quality control system, there is a strong economic incentive to avoid the violation. There is another virtue to this proposal. It would reduce the risk of having unexpected violations increase costs to the inspection program.

Finally, as the Committee is aware, although the inspection system is publicly supported, the Department does and has for many years required plants to pay the additional inspection costs of extra and overtime shift work. Therefore, there is precedent for having fee for service when a plant requires a level of service beyond the ordinary.

A first violation might result in increased inspection and added costs for a period of sixty days. A second violation might reasonably result in increased inspection for 6 months. A third violation or violations of a very serious nature should result in cash fines being assessed as noted before. The 1978 report contemplated a maximum of $100,000 and a minimum not less than the expected sale value of the lot in question.

There is a reluctance in Congress to establish civil penalties, but in this system, there is little opportunity for arbitrary action. The virtue of quality control is that, as

long as the plant meets certain standards, it can meet them in any way it chooses. If the standards are clearly spelled out, and if Administrative Law Judges determine fines and hears appeals, the opportunity for arbitrary action is reduced or eliminated. The Administrative Law Judge's decision would be reviewable in Federal court and if an appeal is upheld the government could be required to repay the penalty with interest.

Finally, because non-continuous inspection is such a radical departure from the traditional meat and poultry inspection system, Congress, if it adopts this program, should provide a "sunset" clause. Enact the program for six years and require review and renewal at that time. The meat and poultry inspections system might not be so out of date if it had regular and thorough Congressional oversight.

ADDITIONAL PROPOSED AMENDMENTS TO THE LAW

Mr. Chairman, while the Committee is considering revisions in the meat and poultry inspection system, you should consider revision of the entire penalty structure. I have noted some of the limits of the criminal penalty and withdrawal provisions now in the law. It would be useful to amend the law to authorize the Secretary to impose civil penalties for certain violations, to refuse summarily to provide inspection or to withdraw inspection summarily pending the outcome of administrative hearings and appeals. As noted previously, the current Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act provide criminal penalties for violations of the Acts.

In addition, the Secretary of Agriculture has discretionary authority to handle certain violations with a warning letter in lieu of reporting the violations for criminal prosecution. Since a criminal conviction carries with it the possibility of a jail sentence and the stigma of "criminal" prosecution it is only pursued for those cases where the Department and the U.S. Attorney feel that severe penalties are appropriate. In practice, only a small percentage of the 900-1000 violation cases are referred to the Department of Justice for review for criminal prosecution each year. Most cases are closed with letters of warning or information.

Congress should require the Department to seek a Memorandum of Understanding with the Department of Justice to clarify the criteria for identifying violations which will be disposed of by letters of warning.

Congress should enact legislation which would permit flexibility in dealing with violations which vary in seriousness and in the degree of culpability of the violator. Imposition of penalties through administrative proceedings will allow disposition of violations which are not insignificant but which may not warrant criminal prosecution. A fine of $10,000 for each violation would be appropriate. Each offense should be a separate violation. With regard to withdrawal of inspection, the present Acts provide that the Secretary may refuse inspection or withdraw inspection from any official establishment when, among other things, a person responsibly connected with that firm or official establishment has been convicted of certain crimes or, in some instances, for violations of the sanitation and operating requirements of the regulations. However, these do not adequately encompass all of those who repeatedly fail to comply with the Acts and the regulations, and, in some instances, the opportunity for an adjudicatory hearing and judicial review is provided before the Secretary may act. The establishment may continue to operate until the appeal process has finally run its course. Thus,

unfit estblishments may continue to supply the public with product during the course of these proceedings. Congress should provide for summary refusal to provide inspection or withdrawal of inspection pending the outcome of administrative hearing and appeals. This would enlarge the Department's authority to deal with chronic violators.

Finally, because of the unique pressures and opportunities for the development of improper relationships between the regulated industry and inspectors or graders, it is necessary to take the strongest possible stand against activities that can undermine the integrity of the inspection and grading programs. Penalties should be added to the Poultry Products Inspection Act, the Egg Products Inspection Act, and the Agricultural Marketing Act of 1946 for offering or receiving bribes or gratuities. In addition, the bribery provisions in the Federal Meat Inspection Act should be changed to equalize the standard of proof and penalties for conviction of industry members and government employees and make them more consistent with the general requirements contained in Title 18, U.S. Code. Congress should increase the penalties for violating the bribery provisions.

IMPROVED PROTECTION AGAINST DANGEROUS RESIDUES

Congress should act to strengthen public protection against the growing problem of chemical residues in meat and poultry. Since the end of the Second World War, a "toxics revolution" has occurred as previously unknown substances have been developed and manufactured and have entered the food supply. American agriculture, including the meat and poultry industries, have become dependent on chemicals to enhance production.

Residues in meat and poultry can result from several different sources. Farm animals can be exposed to agricultural chemicals such as pesticides, insecticides, or herbicides when proper husbandry practices are not followed. The improper use of veterinary drugs and medicated feeds can also lead to the presence of chemical residues in meat or poultry. Still another source is industrial accidents involving animal feeds or the environment where food animals are raised. In the past several years, the presence of potentially harmful chemical residues in our food supply has become a matter of growing concern. Major contamination problems arose in 1979 and 1980. In response to the concern expressed by public health officials and the Congress, USDA, in the Carter Administration, stepped up its efforts to see that harmful residues are eliminated from meat and poultry and sought Congressional authority to create an animal identification system so that residue problems can be traced back to their source and to quarantine animals at the source to ensure they are not contaminated.

When residues do occur, they are often difficult to detect because detection requires costly and time-consuming laboratory analysis. The success of the residue control program depends upon an adequate number of tests, and the development of better, faster, and more reliable analytical techniques. For this reason USDA in 1979 and 1980 shifted funds to increase resources for enlarging science laboratory capabilities, increasing the number and range of tests, and accelerating the development of analytical screening methods suitable for regulatory work.

It is easy to avoid dealing with the residue problem, Mr. Chairman, but it is a serious matter now and has the potential to become catastrophic for the public and the industry. Residues aren't visible. The inspector in the plant can't see them. Sophisticated tests are required to

determine their presence and by the time a residue problem is discovered, a great deal and perhaps all of the contaminated product will have been consumed.

What the public and many members of Congress don't realize is that the residue program is not designed to keep contaminated meat from reaching the public. It merely monitors the incidence of violations and tries to prevent reoccurrences. Learning of the problem in time to prevent consumption is a bonus that sometimes occurs and sometimes does not.

In 1979 and 1980 there were several major residue incidents. In the summer of 1979, PCB contaminated feed was produced in a Montana plant. Before the Department knew of the problem the feed had gone to animals and the animal products had been shipped to 14 states and two foreign countries. The cost to the industry was about $20 million.

In 1980 pork meat contaminated with heptachlor was fed to school children in Louisiana. We don't know how many additional incidents occurred but were not found.

The public, the Congress, the industry, and the Department were distressed last year when it was discovered that kangaroo meat had been passed as beef. That sort of economic adulteration dulteration is illegal and it is important to prevent it if at all possible. However, while discovering you have eaten Kangaroo meat may induce a certain queasiness, it is not dangerous. There is a good chance that the American public consumes meat with violative levels of carcinogenic and teratogenic chemical residues with some regularity. This problem has been treated rather cavalierly in recent months.

The Department is continuing efforts to prevent residue violations and to develop quick tests to determine if residues are present. They are teaching farmers how to avoid some residues. However, they have dropped the legislation that would make it possible to trace and quarantine the source of a residue problem.

The number of violations has not dropped. Standards for recalls may be changed and an agreement with companies to withhold announcements of recalls in some cases has been instituted.

Congress should insist that additional funds go to this program, that more tests be run and that recalls be made public. Finally, you should consider creation of an animal identification system.

Mr. Chairman, as noted earlier, there is merit in the institution of less than continuous inspection in meat and poultry processing inspection. However, the bill before you is vague and inadequate. With penalties and standards added, it would be substantially improved. However, the most responsible course of action would be for Congress to deal with the additional problem of improved residue control also.

In conclusion, Mr. Chairman, I realize the potential for cost savings that are possible with non-continuous inspection. None of the proposals made in this testimony would diminish those savings. They would, however, ensure continued public protection.

It is true that we live in a time when Congress is being urged to rewrite a number of laws enacted over the past 40 years. Surely this Congress does not want to be the one to reverse the pattern of 76 years and weaken the long standing federal commitment to clean meat and poultry.

STATEMENT OF RODNEY E. LEONARD, EXECUTIVE DIRECTOR, COMMUNITY NUTRITION INSTITUTE

Mr. Chairman, members of the committee: My name is Rodney E. Leonard. I am executive director of the Community Nutrition Institute, and I am grateful for this opportunity to present our views and those of 31 other citizen, environmental, consumer, labor, senior citizen and health professional organizations on the legislation--S. 2348--to repeal on 80 year old standard of consumer protection.

This is bad legislation. It makes food safety a voluntary action by industry. We urge the committee to send it back to the Department of Agriculture. The reasons for our opposition to the legislation are in a June 4 letter to the Chairman. I would like that letter and supporting comments to be entered in the hearing record, with your permission.

Let me summarize that material.

1. The Wholesome Meat Act gives the Secretary of Agriculture no latitude in his responsibility to maintain the wholesomeness of the foods sold to consumers. Yet this legislation gives the Secretary complete discretion to apply non-health considerations in exempting meat processing plants from continuous inspection;

2. Should any plant abuse this discretion, the legislation gives the Secretary no additional authority to discipline those firms. This authority is critical. The consulting firm that was contracted to develop this basic proposal recommended substantial fines be imposed. GAO agreed, as did USDA in 1978.

3. If a plant abusing this authority distributes a product that is not wholesome, the USDA could not recall the product. This is hypocrisy.

Although the Department argues it proposes this legislation to reduce inspection costs, the true purpose is to tear down a fundamental safeguard of consumer protection that has existed for 80 years. I speak with some conviction about this. I was administrator of the agency responsible for meat and poultry inspection when the last major revisions in the Wholesome Meat Act were enacted in 1967, and I supervised the merger of the meat inspection program and the poultry inspection program in 1968, a real cost reduction effort. I know the difference between actions which reduce program costs while maintaining the spirit of consumer protection and those which propose cost reductions as a Trojan horse to permit less industry regulation and reduce the quality of our food.

This legislation is based on two premises, both questionable and one essentially false. The first is that the Federal regulatory agencies should establish standards for good manufacturing practices. The role of the regulatory agency is to establish standards of wholesomeness; food manufacturers then design and operate food processing plants to produce food products that are wholesome. When the Federal government establishes standards for good manufacturing practices, it assumes a management role that it cannot exercise.

The second premise is that all meat processors operate within a band, or zone of good practices; and, USDA can maintain product quality by monitoring this process. The problem in food safety regulation is not in defining standards for good manufacturing practices, but of how to minimize the risks of management decisions to relax those standards. Probably 85 percent of the meat food products in the U.S. would be produced in wholesome condition in the absence of regulation because the cost of being identified as

an unwholesome food company is too high for the stockholders; quality control is crucial to good management. If this were not so, the annual cost of an inspection program might be as high as an MX missile.

The problems in meat, and poultry inspection, always come down to that last 15 percent of output; if it is produced up to the quality expected by Federal regulation and the standards for a wholesome food, the last 15 percent will cost the plant manager more than the company wants to pay. If you examine the source for the complaints that occur in the present system, most arise from disputes about practices that will lead to problems in food quality.

The system we have now is old, but its not old fashioned. It heads off problems before they occur, which is the best way of staying out of trouble. The proposed legislation not only will allow problems to occur, but also will encourage them; firms that abuse the public health will neither be penalized nor will USDA force the withdrawal of potential hazards. What do they have to lose?

June 4, 1982

Senator Jesse Helms
4213 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Helms:

We the undersigned coalition of consumer, labor, health professional, senior citizen and environmental organizations are writing to express our strong opposition to S. 2348, the "Meat, Poultry and Egg Products Inspection Amendments of 1982" which you introduced on April 1, 1982. Because the bill would transfer major responsibility for conducting meat inspection to the industry and because it includes no safeguards against administrative and industry abuse, we believe the bill would serve only to diminish the safety and quality of processed meats in this country and cause great damage to the confidence consumers now place in these meats.

The bill lists three criteria upon which the Secretary of Agriculture is to base his decision concerning inspection frequency for meat processing plants. Yet the bill also includes an open-ended clause which would essentially allow the Secretary complete discretion in determining which plants are permitted to operate under self-regulation with periodic federal spot checks. Through this clause, the entire process of exempting plants from federal inspection becomes subject to non-health considerations (such as concerns about the federal budget deficit, for example) as well as to political manipulation.

In addition, the bill would provide no additional authority to the Department for the assessment of stronger penalties, including fines, on those firms which abuse their privilege of operating under less-than-continuous federal inspection. Such authority was

recognized as critical to a meat inspection system placing greater reliance on industry self-regulation by the Booz, Allen and Hamilton consulting firm, the General Accounting Office and the Department itself in a study conducted in 1978.

Finally, since in many cases the result of this legislative change would be to drop the frequency of meat inspection to the frequency of food product inspection conducted by the Food and Drug Administration, the bill should provide for USDA authority to recall processed meat products (as the FDA now has such authority). What is more, with the decrease in consumer protection that would result if the bill became law, there would be far less of a reason to avoid the often-proposed transfer of the meat, poultry and egg inspection programs to the FDA.

In sum, H.R. 6062 would trade away the strong assurance of consumer protection which the system of continuous federal meat inspection now provides, without obtaining stronger tools to force compliance in return. In addition we can only assume that this reduction in federal oversight of meat processing plants is only the beginning, and that the Department will next propose to remove or further reduce the number of inspectors in the nation's slaughterhouses. Thus, for all of these reasons, the proposal represents a bargain which would injure consumers and damage their confidence in the national meat supply and it is a bargain which we must forcefully reject.

Thank you for the consideration of our views.

Sincerely,

Community Nutrition Institute
United Food and Commercial Workers International Union
American Association of Retired Persons
Consumer Federation of America
Food and Beverage Trades Department of the AFL-CIO
National Consumers League
American Federation of State, County and Municipal Employees
Center for Science in the Public Interest
Food Research and Action Center
Public Citizen's Congress Watch
International Ladies Garment Workers Union
Gray Panthers
Federation of Homemakers
United Auto Workers of America
Consumer Coalition for Health
Industrial Union Department of the AFL-CIO
The Humane Society of the United States of America
Maryland Citizens Consumer Council
Virginia Citizens Consumer Council
Friends of the Earth
Migrant Legal Action
Equal Justice Foundation
Feingold Association
World Hunger Education Service
Concern, Incorporated
National Coalition Against the Misuse of Pesticides
Change, Incorporated
Consumer Affairs Committee of the Americans for Democratic Action

American Medical Students Association
Communication Workers of America
American Federation of Teachers
International Union of Operating Engineers

FACT SHEET

H.R. 6062 and S.2348
Legislative Proposals to Modify Frequency of Federal Inspection of Meat and Poultry Processing Plants

Introduction

The U.S. Department of Agriculture is proposing to change the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 450) and the Egg Products Inspection Act (21 U.S.C. 1030) to allow the Secretary of Agriculture complete discretion in determining which meat and poultry processing plants receive "continuous" federal inspection and which are permitted to police themselves with random federal inspection spot checks. Presently, all meat processing and animal slaughter operations must undergo continuous inspection by USDA meat inspectors in order to ensure that plant operators do not, either inadvertently or intentionally, produce unwholesome, unsafe or mislabeled meat products.

Although the FMIA, PPIA and EPIA now require continuous inspector presence in processing plants, in reality federal meat inspection does not involve inspector oversight of each and every slaughter and processing operation or even every meat or poultry product. Yet today's meat inspection does imply a strong federal presence where, in larger plants, inspectors are always circulating through the meat plants, examining operations, checking labels and procedures, making sure plant operators do not manufacture adulterated or misbranded processed meat products. In small plants, inspectors, while not present every minute, do check in at random times every day to perform the same function.

The Proposal

The Administration proposal would provide the Secretary of Agriculture with the complete discretion to decrease the frequency of federal inspection in certain meat and poultry processing plants, so that federal inspectors make only random spot checks of plant operations in these plants, while assigning to other plants strong and "continuous" federal inspection. The proposal states that the Secretary will decide which plants get what type of inspection on the basis of:

1. the nature and frequency of the plants processing operations;

2. The adequacy and reliability of a plant's monitoring system;

3. the plant's history of compliance with inspection requirements; and

4. other factors the Secretary deems appropriate.

The Problems

The principle problem underlying the proposed legislation is that it attempts to apply a management procedure (quality control) which is designed to prevent processing mistakes that add to plant costs to the public need for an inspection system which prevents processors from producing products that cause consumers economic and physical harm. While there is a natural incentive for plants to diligently maintain quality control programs that cut costs, there is no such natural incentive to conduct strong safety assurance programs that protect consumers. Moreover, even if such a program could be developed in a particular plant, unless there is effective and continuous inspector oversight, or unless strong economic deterrents to the production of unfit products take the place of the health inspector in assuring compliance, meat inspection will be far less effective in preventing the sale of unsafe and mislabeled processed meat products to consumers.

A second major problem is that while in theory, correlating the intensity of meat inspection to the degree to which plants are likely to produce adulterated or misbranded products is sensible, in practice, it is far more difficult to make a truly objective and accurate decision as to which plants need greater inspection than others. As Rep. Jamie Whitten (D-Miss.) has observed, the "good track record" of a plant may be due more to the continued oversight of the federal inspector than to the good intentions or sound procedures of plant operators. What is more, the Department has been known to be wrong in assessing "quality control" procedures. In one recent case, a plant that the Department said was "one of the better plants" producing precooked roast beef products, was found to be selling products contaminated with harmful Salmonella bacteria. Only the routine test of a federal inspector caught the problem and prevented it from becoming a major consumer health disaster.

A third problem is that the Department has not built into the proposals the safeguards necessary to prevent administrative abuse of the greater inspection discretion it provides itself and to ensure that plants gaining greater responsibility for their own inspection do not abuse this privilege.

For example, the clause in the proposal which allows the Secretary to consider unspecified "other factors" when deciding which plants are to be relieved of strong federal inpsection would open an enormous Pandora's Box of problems for the public, the industry, and the USDA in assuring the wholesomeness, safety and proper labeling of meat products. In fact, the whole system of meat inspection would become vulnerable to political manipulation (say if Senator X pressured the Department to exempt a certain friendly meat processor in his or her home state) and to pressures unrelated to protecting the public health (say, if David Stockman wanted to squeeze $150 million out of the meat inspection program and ordered the USDA Secretary to lower his decision standards so low that only very few plants would be federally inspected--thus allowing many unqualified and unscrupulous meat processors to police themselves). In either case the public could be exposed to harmful meat products.

Finally, despite the recommendations of:

1. The Booz, Allen and Hamilton, Inc. management consulting firm;

2. The U.S. General Accounting Office; and

3. The Deparment of Agriculture itself, in a 1978 study,

The proposal requests no additional authority to levy stiff fines on meat plants that abuse their privelege to police themselves. Such economic penalties were strongly recommended in the studies conducted by the above three offices as necessary to provide a strong and constant deterrent to the production of unsafe meats--a deterrent which is now provided by the constant presence of a meat inspector but which would be eliminated if the inspector were to leave the meat plant. In addition, without such authority to levy fines, the Department would have no effective means of penalizing meat firms that produce unsafe or fraudulent products.

For the meat industry, the proposal would spell less regulation and fewer impediments to the production of products that are heat processed at temperatures which are too low, contain more fat and filler than is permitted by regulation, and/or are produced under unsanitary conditions. For the consumer, more importantly, the proposal would spell far less health protection and confidence in the supply of processed meats.

Conclusion

In effect, the Reagan Administration seeks to give to the meat industry major responsibility for conducting its own health and safety inspection, without gaining any compensating tools to maintain consumer protection in exchange. The bargain proposed here is thus grossly unbalanced and unfitting for the agency charged with the responsibility for maintaining the safety of the processed meat supply in this country. What is more, the true losers in this transaction will inevitably be both the American consumer and the U. S. meat industry itself, which until now have gained immeasurable benefit from a strong and effective inspection service that has resulted in the safest meat supply in the world.

Statement of
Lee Campbell, President
Poultry and Egg Institute of America

Mr. Chairman, my name is Lee Campbell, President of the Poultry and Egg Institute of America, Arlington, Virginia. The Institute is the national non-profit association representing among others, those that process poultry and eggs and the products thereof.

I am also testifying today on behalf of Southeastern Poultry and Egg Association of Decatur, Georgia, with more than 16,000 member in thirteen Southeastern states.

Our organizations generally support S. 2348 which would amend the Poultry Products Inspection Act and the Egg Products Inspection Act to give the Secretary of Agriculture more discretion in determining the degree of inspection needed in poultry and egg processing plants.

The amendment would allow the Department to eliminate the continuous inspection requirement for the further processing of poultry and for certain operations in egg products processing and to reduce the number of inspections of shell egg handlers. Unchanged would be the continuous inspection of slaughter operation and egg breaking operations.

I think it is important, Mr. Chairman, to view these amendments in light of the situation that exists as far as consumer protection is concerned in our industry. There is no other food item that receives the highly regulated continuous inspection that is rendered for meat, poultry and eggs. Not one. All the rest of our food supply is subject to spot checks and these could be once a year or once every two years.

It is fair to say, I believe, that when the meat, poultry and egg acts were passed it was clear that the acts were necessary because a relatively small portion of our industries could be producing unwholesome product. The begining of Federal involvement in inspection began with meat in 1890. The Poultry Act was passed in 1957 and amended in 1968. The Egg Products Act completed the picture in 1970. Industry generally supported the poultry and egg acts.

Even with the amendment proposed in this legislation, the meat, poultry and egg industry still would be the most inspected of all foods and, thus, the consumers would continue to be assured that the products they buy are safe, wholesome and unadulterated.

The amendments would not change the current requirements for the continuous inspection of slaughter operations for poultry. Thus, birds would continue to be subjected to ante mortem and post mortem inspection as required by the Poultry Products Inspection Act and by regulations of the Secretary. No change is made under sections, in the current law, dealing with sanitation, facilities, practices, labeling, containers, standards and prohibited acts.

The plants processing poultry products beyond the slaughter stage would at all times, it should be emphasized, be utilizing poultry that already has been inspected and found to be wholesome and unadulterated. Once that poultry has been inspected, under the continuous system, and found safe, one could logically contend, we believe, that further inspection could be accomplished under a system similar to that used by the Food & Drug Administration on all the other foods we eat.

The Egg Products Inspection Act, under this proposal, would be amended in two respects.

With the exception of egg breaking operations which would continue to be continuously inspected, the Secretary would be able to determine the frequency and amount of inspection that would be done in an egg products plant. Here again, as with poultry slaughter inspection, the government would have continuous control over the quality and wholesomeness of the eggs that are broken. Thus, from that stage, the processor would be working with a wholesome product. Subsequent laboratory analysis and unannounced spot checks would keep the integrity of the program from being jeopardized.

The other amendment would permit the Secretary to check on the compliance of shell egg handlers at least once a year instead of at least once a quarter. Though a controlled program like this we believe the consumers would be assured of getting clean sound shell eggs as they do now.

Let me again emphasize that even with the amendments proposed, poultry products and egg products and shell eggs (along with meat) would still be the most inspected of all food products.

Why are we at this point today? Why do we believe that the Secretary should have increased discretion in the amount of inspection given to processors of poultry and egg products?

When the poultry act was passed and amended the whole area of further processing was not really considered. Largely poultry plants performed only slaughter operations. What has developed has been a highly sophisticated technology. Plants are utilizing improved methods of monitoring processing operations and product control. Competition in this fast growing arena makes it imperative that each company does a job of convincing consumers that its brand(s) is safe, wholesome, and is a quality product.

Egg products plants have upgraded their equipment and operating procedures. The record of egg products as it relates to food-borne illnesses has been outstanding.

The shell egg industry has changed its marketing patterns. Restricted egg disposal is entirely different now and the packers desire, under today's competitive situation, is to get good, clean, sound eggs to market as quickly as possible. State egg laws and U.S. grading programs all lend a hand, too, in being sure the Consumer gets good eggs.

We agree that the time has come to do things differently as far as inspection of these operations is concerned. Today's operations just do not require the same kind of oversight that was envisioned when the Acts were passed. This, plus the fact that it costs money... money that could be saved by the taxpayer and by industry. The government cost would be reduced under this approach and, yet, the integrity of the program would not be compromised. Inspection can be geared to the Company's record of compliance, can be geared to the company's own monitoring programs and type of operation.

Industry would especially encounter savings because of less overtime. Granted poultry and egg processors would still pay overtime on slaughter and egg breaking operations but other overtime should be reduced.

In these days of needing to increase productivity and decrease costs both in government and the private sector, this approach, we believe, is an appropriate one and we support the proposal

We do have two concerns that I would like to discuss.

There is concern in our industry that in the implementation of this legislation, if it becomes law, the Department intends to utilize it to make mandatory what is currently a voluntary total quality control system designed by the Department for the poultry products industry.

In other words, the Department would say to industry that the only way discretionary inspection could be applied to a plant would be if that plant was under the Department's total quality control program. In effect, we contend that makes total quality control mandatory.

What is even of more concern is that we would be faced, downstream, with the prospect of the Department saying to poultry plant management -- "Either you install our total quality control program or we will not provide inspection".

Our concern does not extend here to the egg products industry. In practice, because virtually every plant concerned would have egg breaking operations, there would be a presence of USDA and the Department would not seek to impose any total quality control program such as is comtemplated for poultry.

Quality control systems have been developed and managed by the poultry and egg products industry to produce a consistent and uniform, high quality product that meets and even exceeds the Department's regulatory requirements.

The total quality control program the Department designed has met with less than favorable acceptance by the poultry industry. We believe it to be unreasonable, has no justification on an economic basis, has too many unknowns, is costly to the processor, and most of all allows the Department to be involved to an even greater depth than it is now.

What I am saying, Mr. Chairman, is we do not want to find ourselves believing that we will receive less costly inspection more fitted to today's operations only to find ourselves saddled with a more complicated mandatory quality control program devised by the Department.

A review of the rulemaking process regarding the Department's Total Quality Control program will show that the Department received 1,550 written comments from interested individuals and organizations. Only 14 were considered by the Department to be generally positive. The Department proceeded, however, to publish a final rule apparently because the program was to be voluntary and if a plant did not agree with the program it did not have to participate.

Many in industry already, as I have said, are doing a job of quality control. Our industry would still be inspected more than thousands of food plants throughout the country. We hope that as the Committee considers this proposal it will give guidance to the Department to see that the system developed is not more onerous and costly than at present.

We would urge that the proposal could be amended to make it clear that if any plant does not wish to comply with the Department's criterion for receiving discretionary inspection the plant may continue to receive inspection as now provided by the Department. The choice should be the plant's choice.

Another matter of concern is the issue of civil penalties. The proposal does not call for such penalties but there has been discussion of this in some quarters.

The Department has not indicated a need. Certainly the administrative sanctions available under the laws concerned provide an adequate enforcement mechanism. Civil penalties could mean increased judicial staff and increased legal counsel to handle the work load. Civil proceedings tend to drag on. The Food and Drug Administration does not enforce with civil penalties, either.

Under this proposal you would be modifying the way the Department would inspect. That doesn't mean that industry is going to modify its ways to lessen the quality and wholesomeness of its product. We submit that industry has proven itself to be responsible. Those in industry that have not, have felt the impact of administrative sanctions.

Mr. Chairman, we endorse S.2348. Our concern is the way it will be carried out in poultry plants and we have discussed amending the proposal to protect the plant's right of choice. In the long run, the proposal, if properly administered, could be of benefit to government, to industry and to the taxpayer consumer. Thank you for the opportunity to present our views.

STATEMENT OF GEORGE WATTS, PRESIDENT, NATIONAL BROILER COUNCIL

I am George Watts, President of the National Broiler Council. The Council is a trade association representing the producers and processors of over 75% of the broiler/fryer chicken produced in the United States. The Council is very pleased for the opportunity to present our views on legislation which takes an important step toward aligning the inspection activities of the U.S. Department of Agriculture with today's highly sophisticated processing techniques.

NBC is supportive of the concepts embodied in the legislation in that it is a move toward ending the requirement for continuous inspection in plants which process poultry, meat and eggs. While we do support the purpose of the bill, there is one aspect of the legislation which we believe needs improvement, and I will address that shortly. We do, however, applaud USDA for making a positive effort to reduce unnecessary regulation and the high cost of inspection, while continuing to provide consumer safeguards for product wholesomeness. I do wish to emphasize that the bill applies only to processed poultry, meat and egg products, and will have no effect on slaughter operations conducted prior to post-mortem inspection.

All U.S. poultry sold in interstate commerce and for export is subject to inspection by USDA prior to and at the point of slaughter. In fact, in broiler slaughter establishments, each and every chicken is examined by USDA inspectors. When chicken is then processed into chicken frankfurters, bologna or chicken patties, it must undergo further reinspection by USDA. Let me provide an example of this reinspection: a plant which receives cooked, frozen, cut-up, prepackaged poultry and adds that chicken to broth to make soup, must have continuous inspection by USDA. The chicken purchased by the plant was inspected at slaughter and during packaging of the product. There is no further cooking of the chicken involved, nor the adding of spices or other ingredients to the chicken itself. The mere addition of the chicken to a broth requires on-site continuous inspection by USDA. The Food and Drug Administration makes no continuous inspection of food processing facilities. Only those plants processing poultry and meat under USDA's jurisdiction are subject to this reinspection.

We believe that this continuous reinspection is no longer necessary

and is an inefficient utilization of inspection resources. The processing of poultry has become a highly sophisticated technology, utilizing improved methods of monitoring processing operations and product control. The reliance upon scientific product monitoring and data will provide more effective controls and safeguards than a visual examination by USDA inspectors, and because product can be more closely controlled, consumer may have increased confidence in product quality and uniformity.

Those USDA inspectors currently assigned to continuous reinspection in processing plants may be utilized in increasing productivity in slaughter or other plants, providing more effective utilization of USDA resources. In addition, overtime charges which are the responsibility of processing establishments will be greatly reduced. According to USDA, processing inspectors in poultry, meat and egg establishments earned between $12 and $13 million in overtime pay in 1981. Those costs were charged to processing establishments.

The legislation gives the Secretary of Agriculture the discretion to determine which processing plant will participate in the discretionary inspection program. We believe it would be most appropriate, and in fact necessary, to provide safeguards in the language of the legislation to prevent the future imposition of mandatory total quality control programs on any establishment. We would be happy to work with the Subcommitte in developing appropriate language to this effect.

In summary, NBC supports the direction and concept of S. 2348. With the exception of a lack of safeguards against the imposition of mandatory total quality control programs, the bill is an excellent vehicle for improving USDA's processing products inspection system, allowing more efficient utilization of inspection resources, and providing heightened consumer protection with reduced overtime charges for processing establishments.

I appreciate this opportunity to appear before you today.

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STATEMENT OF LEW WALTS, EXECUTIVE VICE PRESIDENT,
NATIONAL TURKEY FEDERATION

I am Lew Walts, Executive Vice President of the National Turkey Federation. The National Turkey Federation (NTF) is the national trade association which represents domestic growers and processors of turkey and turkey products in the United States.

It is a pleasure to appear before you today on behalf of NTF's membership to discuss S. 2348. NTF's members are dedicated to assuring the American public safe and wholesome turkey products. At the same time, our member growers and processors oppose unrealistic and unnecessary regulations which tend to raise costs without providing consumers a corresponding benefit.

S. 2348 is intended to apply only to further processing in meat and poultry plants and not to slaughtering operations. The legislation would affect that segment of the turkey industry which processes previously inspected turkey meat into "poultry products" as that term is defined in the Poultry Products Inspection Act. This growing segment of our industry produces a wide variety of products including turkey franks, turkey roasts, turkey bolgna and turkey ham.

S. 2348 would amend the Poultry Products Inspection Act to allow the Secretary of Agriculture to determine the intensity and frequency of governmental inspection conducted at processing establishments on a plant-by-plant basis. The legislation would require the Secretary to take into consideration the following three factors in determining whether a poultry further processing facility will be subject to continuous or discretionary inspection:

1) The nature and frequency of the establishment's processing operations;
2) The adequacy of its product monitoring system; and
3) Its compliance history.

In addition, the legislation would amend the label legend provisions of the Federal Meat Inspection Act, 21 U.S.C. Sections 606-608 by providing two separate and distinct inspection legend phrases. The current phrase, "Inspected and Passed", would apply to all products subject to USDA continuous inspection while the new labeling legend phrase, "Prepared in a USDA Inspected Establishment", would apply to those products prepared at a facility subject only to periodic USDA inspection. There is no equivalent amendment to the PPIA since that statute already allows USDA to prescribe by regulation an inspection legend. [21 U.S.C. Sections 453 (h) and 457 (a).] Apparently, USDA would prescribe these distinct inspection legends for poultry by regulation.

The proposed legislation recognizes the technological advancements in meat and poultry processing and the lessened need for the current USDA "continuous" inspection program in many further processing plants. This legislation also responds to the recommendations of both the meat and poultry industry and the General Accounting Office to USDA to moderate the Department's inspection approach, intensity, and costs applicable to the further processing of meat and poultry. The National Turkey Federation's membership is in support of the key provisions

in S. 2348. We are in total agreement with the concept of providing the Secretary with the discretion to limit the intensity of mandatory continuous inspection.

USDA's current continuous inspection program applicable to many poultry processing facilities is costly to both industry and government without providing a corresponding health and safety benefit to the consumer. Under this program, each manufacturer is required to obtain equipment approvals, total or partial quality control program approvals, pay overtime charges, and provide special facilities and equipment for the inspector. When a manufacturer demonstrates a consistent safety record, we fail to see the need for a continuous inspection program which adds unnecessary costs and raises the price of the product to the American public.

While NTF generally supports this proposed legislation, our processor members have concerns with several provisions of the Bill. Section 102 (2) allows the Secretary to consider the adequacy and reliability of a further processing establishment's monitoring system in determining the frequency and intensity of inspection. The use of quality control systems is often appropriate for monitoring further processing, but this legislation must not be implemented or authorize USDA to require a non-voluntary Total Quality Control Program as a condition for obtaining discretionary inspection by any processing plant. Where a particular poultry processing system raises a safety concern, the Secretary should determine the degree of quality control necessary for production of safe and wholesome poultry products with discretionary inspection.

In addition, it should be at the option of the processor to decide whether to seek discretionary inspection. The Department should not attempt to establish an across-the-board non-voluntary Total Quality Control Program for any one segment of the industry as a means of implementing descretionary inspection. Thus, the degree of quality control necessary for the production of a safe and wholesome product should be just one factor to be considered by the Secretary in determining the intensity of continuous inspection applied to any one further processing facility.

NTF questions the need for the two inspection legends proposed in Sections 103-105 of S. 2348. The current inspection legend for poultry, "Inspected for Wholesomeness" places the Department's seal upon the poultry product offered to consumers and certifies it has been produced in conformance with all applicable laws and regulations. This legend is intended under the legislation to be continued for only those products manufactured in facilities subject to continuous inspection.

The proposed alternative legend, "Prepared in a USDA Inspected Establishment", would appear on the label of those products produced in a facility subject to discretionary inspection. There is no rational basis for making distinctions in the inspection legend because discretionary inspection would be conditioned upon a determination by the Secretary that there are no safety or health concerns which warrant an intensive continuous inspection program. Thus, there would be no safety or health reason which warrants the different types of inspection legends.

The establishment of two distinct labeling legends could result in a perception that "Inspected and Passed" product would be superior to product which carries only the "Prepared in a USDA Inspected Establishment" legend. Such perceptions would only confuse consumers. In addition, processors would need to maintain additional label inventories for different establishments under different inspection arrangements. Thus, NTF suggests that the current inspection legend be maintained.

We understand that several groups oppose S. 2348 on the alleged ground that this legislation would decrease consumer protection in further meat and poultry processing establishments. These groups have suggested that at a minimum, amendments should be made to the Poultry Products Inspection act to grant the Secretary civil penalty authority. S. 2348 will in no way compromise consumer protection because all decisions as to the intensity of inspection will be based upon the ability of the further processor to manufacture a consistently safe and wholesome product. Under the Bill, the Secretary would have the flexibility to lessen or increase inspection intensity. Futhermore, the current penalty and enforcement provisions in the Poultry Products Inspection Act are more than adequate to protect the public health.

Currently, the Poultry Products Inspection Act provides USDA with the most pervasive inspection and penalty authority in any area of food regulation. USDA inspection and enforcement authority are far more comprehensive than that employed by the Food and Drug Administration (non-meat food products), the National Marine Fisheries Service (fish), or the Bureau of Alcohol, Tobacco, and Firearms (alcoholic beverages). The existing penalty provisions in the Poultry Products Inspection act provide USDA with several important options. These include:

1) 21 U.S.C. Section 467--Withdrawal of Inspection;
2) 21 U.S.C. Section 467a--Administrative Detention;
3) 21 U.S.C. Section 467b--Seizure and Condemnation;
4) 21 U.S.C. Section 467c--Injunction Authority; and
5) 21 U.S.C. Section 467d--Criminal Penalties.

It is clear from the above sanctions that USDA has available a variety of enforcement options sufficient to deal with any violators of the Poultry Products Inspection Act.

CONCLUSION

The National Turkey Federation is in general support of S. 2348 which allows the Department discretion in determining the frequency and intensity of the continuous inspection program for further processing operations. This legislation, if properly implemented, should result in cost efficiencies to the Department, the further processing industry and consumers alike. The purpose and intent of this Bill will result in reduced inspection costs to the industry, specifically, overtime costs, without compromising consumer protection. Finally, the Department would be able to re-allocate its inspectional resources to those areas where there may be more of a concern for human safety and health.

Thank you for this opportunity to testify.

STATEMENT
by the
NATIONAL PORK PRODUCERS COUNCIL

Mr. Chairman and Members of the Subcommittee:

The National Pork Producers Council is pleased to have this opportunity to make a statement to your Subcommittee in regard to this issue and especially on H.R. 6062.

The National Pork Producers Council has over 110,000 dues-paying producer farm families as members. It is funded entirely by a voluntary checkoff program which collects two dimes per market hog at the market place. Producers who voluntarily participate number well over 200,000. The goal of our relatively young organization is to improve the profitability of pork production. We provide consumers with information concerning the nutrition and the economic value of pork. In addition to increasing demand for the product, our Council's job is to reduce the costs of production by improving efficiency.

The confidence of the consumer in the safety of the food they buy is extremely important to livestock producers. The record of the United States Department of Agriculture (USDA) in the inspection of meat and poultry is an enviable one. This outstanding record of protection has been founded on a resident inspector program. This successful program has been equally important to consumers and producers of animal products. We commend the USDA for this record of performance which goes back over the past 75 years.

The consuming public has received this protection and assurance of wholesomeness at a very low cost per capita. The calculated cost in appropriated funds is below three cents a week for each person in the United States. In our opinion, this represents a "real bargain" for the U.S. consumers. The credibility and reliability of the program must be maintained.

On the other hand, the production of meat and meat food products has changed remarkably over the years. The processing of meats now takes place at a separate plant from slaughtering. Additionally, there has been a great increase in the number of processing plants. The changes

require a review of the present program. Along with the changes in the industry, there have been significant changes in the equipment and facilities utilized to process meats.

Over the years, the industry has made major improvements in the quality control in the processing of meat products. Wisely, the USDA has gradually incorporated these quality control programs into their inspection systems. This has allowed inspectors to gain experience with the Voluntary Quality Control program (VTQC). It has also given the program experience in concentrating inspection on the key points for maximum control.

The fact that three independent studies of the meat and poultry inspection programs have recommended modifications is significant. We don't feel it advisable to move as rapidly as the recommendations outlined in these studies. However, since the recommendations are toward modifications in the direction specified in this legislation under consideration, it is reasurring.

The USDA has already taken a number of steps in recognition of the changes referred to above and made certain modifications in programs in accord with the recommendations of the studies. Before the inspection program can be modified further, the Secretary has to be given additional authority on how to deploy his inspectors and in the frequency of inspection. We find the conceptual framework of the Secretary's discretion as outlined by the USDA to be logical, realistic and enforceable. The concept of a non-continuous processing inspection program as defined by the USDA would consist of three parts.

1. An adequate and reliable product monitoring system operated by the inspected establishment,
2. Periodic, unannounced record reviews and other observations by USDA to determine how well a plant is adhering to its own product monitoring system; and,
3. Random sampling by USDA of intermediate and finished products to verify compliance with government standards.

There is one question that arises with less than continuous inspection

that doesn't seem to be addressed in H.R. 6062. When an inspector visits a plant and finds a violation of procedures, especially sanitary procedures, will the product produced since the previous inspection be recalled if it has already been shipped from the plant? The proposal under consideration is clear in regard to the adulterated product in the plant, but is silent in regard to the product produced which has already been removed from the establishment. This point should be clarified in the language of the act or the legislative record accompanying the legislation.

After careful consideration of all the available factors and recognizing the cost of the program continues to escalate, the National Pork Producers Council recommends the legislation be reported favorably from the Subcommittee.

We are greatly concerned that nothing be done to reduce the confidence of the consumers in the pork products that they buy. We believe that sufficient study has been given to this proposed legislation and its implementation to make its enactment compatible with continued consumer confidence. If savings in the inspection program can be made without deluding the quality of the inspection program or of the products, they should be allowed, especially if these changes are consistent with modern equipment, facilities, methods and procedures. It is clear that changes have been made to modernize all phases of the food industry and, therefore, we believe inspection procedures can be updated to take advantage of these changes.

We have confidence in the Department's program administrators and inspectors. We believe that some discretion can be allowed in the frequency of the inspection without compromising the quality of the inspection program. We, therefore, favor this proposed legislation and hope that your Committee will concur.

STATEMENT OF CLARENCE J. BECKER, ON BEHALF OF THE NATIONAL ASSOCIATION OF MEAT PURVEYORS

Mr. Chairman, Members of the Subcommittee, my name is Clarence J. Becker. I am President of Becker Food Company of Milwaukee, Wisconsin, a family-owned business established in 1923. A Past President of the National Association of Meat Purveyors (NAMP), I am currently Chairman of the Legislation and Regulations Committee of the Association, and it is in that capacity which I appear here today.

NAMP is a national organization whose approximately 400 member companies process and distribute meat and meat products to hotels, restaurants, schools, hospitals, clubs and other segments of the foodservice industry. Since a sizeable percentage of the meat consumed in this counrty is eaten away from home, NAMP members are a vital link in the distribution system.

We appreciate the opportunity to appear here today and voice our concerns about some of the specific provisions of S. 2348, a bill which we believe could undermine the already eroding program of meat inspection in this country.

Federal Meat Inspection Act

The Federal Meat Inspection Act (21 U.S.C. & et seq.) was originally adopted in 1907 by the Congress, after the muckraking investigations of Upton Sinclair. The last major amendment to that law took place 15 years ago, when the Wholesome Meat Act was adopted. That law represented a watershed in the number of plants which were placed under federal meat inspection. The plants which "went federal" after Association of Meat Purveyors, small plants which had operated until that time under a "certificate of exemption" issued by the Agriculture Department.

The "certificate of exemption" procedure was wiped out by the Wholesome Meat Act and many purveyors were forced to spend

large sums of money to bring their plants and equipment into compliance with the complex requirements of the federal meat inspection program if they wanted to continue to conduct interstate business.

Uninspected Boxed Meat Distributors

The Wholesome Meat Act of 1967 also added provisions to the Federal Meat Inspection Act dealing with meat processors and related industries (21 U.S.C. §641-645). Under these sections meat brokers, renderers, animal food manufacturers, wholesalers, warehousemen and dealers in diseased or dying animals were required to register with the Department of Agriculture.

As of March, 1982, the last date on which we were able to obtain figures, more than 16,000 of these companies had registered. All of them register because they are not subject to federal meat inspection. To put the number in perspective, there are about 7,155 plants currently receiving federal meat inspection.

The number of these uninspected meat distributors and handlers has increased dramatically in recent years, as more and more food wholesalers have taken on boxed meat as a new product line. In fact, anyone with a refrigerator or freezer can now handle meat, since the advent of boxed beef has made distribution of meat more widely available.

With increased distribution channels has come increased problems and, sadly, USDA has not moved to police these uninspected channels. Boxed meat, as you know, is meat which is packed in vacuum-sealed plastic bags which are then inserted in a cardboard shipping container. According to the Wholesome Meat Act, companies which merely handle the boxes -- without, as the regulations state, "further processing" the product inside -- do not require federal inspection. But, if USDA doesn't inspect these companies -- and the Department not only

does not inspect them, but doesn't even have them on any kind of routine compliance reviews unless a complaint (usually from a member of NAMP) is received by the Department -- how is anyone to know what they are really doing.

NAMP has brought instances of "breaking bulk" -- that is, the opening of boxed meat cartons and selling the unlabelled contents by the bag -- to the Department on numerous instances. While follow-up has generally been prompt, the Compliance Division has persisted in misinterpreting the law as can be attested by the letter from USDA Assistant General Counsel Miriam Bender which is attached to this statement. Even after receipt of this letter, the Compliance Division has applied the same enforcement standard which the General Counsel's office condemned.

What can be done about the problem of uninspected boxed beef distributors? NAMP has repeatedly called on the Department for a strict interpretation of the law, and strong enforcement policies, only to be told that the remedies available to USDA are not sufficient to do the job. These remedies consist of a warning letter (a "slap on the wrist" from Washington) or a criminal prosecution. The former is simply not sufficient to deter an offender, and the latter is difficult to obtain, since United States Attorneys are frequently occupied with more serious crimes and offenses.

The previous Administration sought to buttress USDA's enforcement capability by introducing legislation which permitted the imposition of civil penalties under certain circumstances. NAMP believes that this legislation, which never received a public hearing in the Congress, should be carefully reviewed to see if its provisions would materially assist USDA in its enforcement against these uninspected boxed meat distributors.

A second approach to the problem has also been repeatedly recommended by NAMP. Under 21 U.S.C. §624, the Secretary of Agriculture has the authority to promulgate storage or handling regulations under which these uninspected establishments would have to operate. On at least two occasions in the last five years, NAMP filed formal petitions with the Department to institute a rule-making proceeding under this section. The petitions were summarily rejected.

Uninspected boxed meat distributors thus operate without the requirement of mandatory sanitary rules. USDA will tell you that these establishments are subject to state and local sanitation requirements, but it has been our experience that state and local ordinances, for the most part, do not cover wholesale establishments.

NAMP believes that it's time for the Congress to mandate sanitation, storage and handling regulations for the uninspected portion of this industry. We therefore recommend that 21 U.S.C. §624 be amended so that the Secretary is directed to issue the kind of regulations which the Department has avoided for the past 15 years. NAMP believes that these regulations are long overdue and that the country should not have to be subjected to a meat industry sanitation scandal before the Department decides to move. The simple change of the word "may" to the word "shall" in that section would accomplish the purpose which we seek.

Uninspected Retail Establishments

Under the Wholesome Meat Act and the regulations issued by the Department, bona fide retail stores are exempt from inspection requirements. This exemption has been in the law for many years, but it is an area which the Department has begun to gratuitously widen -- without appropriate Congressional review -- in the last few years.

The "retail exemption" used to be limited to strict dollar

amounts; that is, a retail store could sell non-retail merchandise (such as to hotels and restaurants, the same customers as buy from NAMP members) only if they stayed under certain dollar volumes each year. Those dollar limits were sharply increased a couple of years ago, and future increases were tied to the inflation rate. Now, retail stores can sell more than $50,000 worth of merchandise to non-consumer customers each year ($28,800.00 worth of meat and $23,100.00 worth of poultry), and these figures will rise as the Consumer Price Index for meat continues to increase.

Let me emphasize at this point that these retail establishments are not subject to the same rigid federal inspection standards as are applicable to NAMP members. Additionally, these retail establishments are not required to keep records of their sales to institutional customers and are not audited on a routine basis by USDA. In fact, it's only usually after a complaint by NAMP that a retailer is visited by appropriate federal or state officials.

Worse yet, however, USDA is expanding the category of "consumers" to whom a retail store may sell in any amount without having to apply for federal meat inspection. Neither the law nor the regulations define exactly what is a "consumer." So USDA has done it by a hit-or-miss series of interpretations which are apparently based on little logical or consistent rationale.

Take the case of a college fraternity or sorority house. It used to be considered the equivalent of a hotel or restaurant for inspection exemption purposes, and not the equivalent of a "consumer." But a state trial court in Iowa, applying that state's meat inspection act (and not even the federal law) determined that a fraternity/sorority house <u>was</u> a "consumer," so USDA changed its interpretation. As the letter appended to this statement indicates, USDA equates a fraternity

or sorority with churches and rectories and with any group of people, whether or not related, who live together. Using this same rationale, however, USDA could exempt from inspection retail store sales to hotels and motels, or to hospitals, to nursing homes, to boarding schools, to summer camps, or to prisons, because these types of establishments are comprised of groups of people who reside together.

And to let retail stores sell unlimited quantities of meat and meat products to fraternities, sororities, hotels, motels, hospitals, schools, boarding schools, summer camps, prisons and the like, would be a subversion of the principles of the Wholesome Meat Act.

Further, it would constitute a double standard, since NAMP members which sell to these same organizations must comply with the stringent sanitation and other rules laid down as part of USDA's meat inspection service.

NAMP therefore suggests that the Wholesome Meat Act be amended to prescribe prescisely who is a "consumer" and what kind of establishments are bona fide retail stores, and that this limitation be tightly drawn so as to provide the maximum protection for those who live and eat in group situations outside of a normal home or apartment setting.

S. 2348

Against this backdrop of non-legislative widening of the exemptions to federal meat inspection, the Agriculture Department has proposed -- in S. 2348, the Meat, Poultry and Egg Products Inspection Amendments of 1981 -- a further, and potentially unlimited, broadening of the exemptions from the 75-year-old requirement for continuous federal inspection of meat and meat products.

The rationale behind S. 2348 is, in many respects, commendable: that in light of today's scientific technology it may no longer be necessary to insure the public's health and

safety by inspecting each and every piece of meat which goes into many commonly-used products. It makes little sense for the federal government to provide the costly services of an inspector to watch the production of such things as vegetable soup, frozen TV dinners and canned beef stew. The USDA's scarce resources could be put to better use elsewhere.

But the proposal made by the Department goes too far, for it would give the Secretary unlimited -- and unchecked -- authority to exempt any establishment, or any category of establishments, on any terms, with or without the establishment's consent. The language of S. 2348 is clear and unmistakeable, requiring inspection of meat and meat products

> in such manner and with such frequency as the Secretary (of Agriculture) deems necessary and in accordance with regulations promulgated under this (Federal Meat Inspection) Act, based on consideration of factors which shall include, (1) the nature and frequency of the establishment's processing operations, (2) the adequacy and reliability of an establishment's product monitoring system, and (3) the establishment's history of compliance with inspection requirements, and such other factors as the Secretary may deem appropriate.

This open-ended grant of authority to a non-legislative body goes too far, in NAMP's view. It interjects the possibility of non-safety and non-health related considerations as criteria for continued inspection of the nation's meat slaughtering and meat producing establishments.

NAMP believes that it is inappropriate for Congress to establish a system of federal meat inspection, and then delegate away to an administrative agency the ability to undermine the Congressional decision by exempting large numbers of establishments without Congressional review.

Conclusion

In light of the Department's performance with regard to uninspected boxed meat distributors and the retail exemption, NAMP believes that it is time for a systematic review of the entire Federal Meat Inspection Act, with a view toward standardizing inspection, providing specific criteria where exemptions are warranted, and authorizing new penalties and enforcement tools against those who would violate the principles originally enunciated by Congress in 1907.

Testimony of
Daniel W. Neff
Representing
S. Clyde Weaver Inc., East Petersburg, Pennsylvania
and
American Association of Meat Processors, Elizabethtown, Pennsylvania

S. Clyde Weaver Inc. and the American Association of Meat Processors support the concept of eliminating continuous inspection requirements. We feel that the Total Quality Control Program (hereinafter referred to as TQC), if properly administered, can be beneficial to small meat businesses.

The S. Clyde Weaver Company has been in business since 1920 serving the retail trade through farmers' markets in Southeastern Pennsylvania. We sell smoked meats and a variety of cheeses through our home store and thirteen farmers' market locations in the area. At the farmers' markets, we sell our products directly to the consumer, as do other standholders selling lines of food products, such as baked goods, produce, different fresh meats, candy and dry goods.

The American Association of Meat Processors (AAMP) has almost 1500 members located throughout the United States and Canada. The businesses represented by AAMP are primarily small to medium sized, locally owned meat businesses. A profile of the type of activities conducted by AAMP's members is attached (Exhibit A).

S. Clyde Weaver buys all its products from federally inspected plants for slicing and distribution. Several items are further processed by smoking or cooking. The products are bulk packaged in large containers for shipment to our markets on our trucks. We are required to have our own labels to transport these products from our home plant to our markets. The labels are not allowed to be displayed or included in the retail package because they are approved only for the bulk package.

The S. Clyde Weaver Company comes under the control of the current federal inspection laws because we have more than two locations of sale other than our home store. Many of our competitors have no inspection because they have only one or two outside locations. Grocery stores and restaurants likewise process the same products, but without any USDA coverage.

S. Clyde Weaver has been involved in TQC since we took part in a pilot program in 1979. In 1981, we then were instated in the actual TQC plan under which we are now operating. The concept of TQC is good. It gives the plant operator a better control and awareness of his product. It gives a uniformity of coverage within the plant, as though an inspector were in the plant at all times. It also generates the information needed to trace or evaluate problems when they happen.

There are several disadvantages to the TQC system under the present law. Unfortunately, TQC has increased inspector time and paperwork in our plant. Previous inspectors went a month at a time with only one or two entries. Inspectors now spend 15 to 20 minutes per day making entries in their log. Exhibit B is an example of the small amount of monthly paperwork involved prior to the TQC program; Exhibit C a sample of the current plant records; and Exhibit D is a sample of the TQC Log now being maintained by our inspector.

Many plants have been over-inspected for years. New legislation should be enacted to reduce inspector time in the plants operating properly, giving more time to the few plants that have demonstrated themselves to be problems. Passage of such a law should not make it a requirement to set up TQC programs or laboratory facilities in meat plants, but should focus on effective cost control by reducing man-hours in plants with TQC. Many small plants conduct a wide variety of slaughtering and processing activities -- so many so that they do not lend themselves to total quality control programs. However, even these more diversified operations do not need the continuous inspection that is now required of them.

Additional paperwork should not become the backbone of the TQC program, especially if it is to the extent that the inspector cannot reduce the man-hours spent in the plant.

Civil penalties would likewise hinder the program by giving undue leverage to the individual interpretations of the inspection law. The present system has sufficient penalizing ability by withdrawing inspection or holding questionable product and no additional system of fines should be considered.

In the long run, the TQC concept shows some good possibilities. Passage of a properly formed law could increase efficiency and effectiveness of USDA and participating plants.

Thank you for the opportunity to express the views of our company and the AAMP.

Respectfully submitted,

Daniel W. Neff

Daniel W. Neff, Vice President
for
S. Clyde Weaver, Inc.
5253 Main Street
Box 115
East Petersburg, Pennsylvania 17520

and
American Association of Meat Processors
224 East High Street
P. O. Box 269
Elizabethtown, Pennsylvania 17022

EXHIBIT A

AMERICAN ASSOCIATION OF MEAT PROCESSORS

MEMBER PLANT PROFILE

January 1, 1982

CUMULATIVE TOTALS FOR ALL FIRMS REPORTING

TOTAL RETURNS: 744

		TOTAL	PERCENT
AAMP MEMBERS WITH INSPECTED MEAT PLANTS		573	77
RETAIL EXEMPT OPERATIONS		98	13
CUSTOM EXEMPT OPERATIONS		177	24
NUMBER OF EMPLOYEES:	FULL TIME . . . 1 - 5	367	49
	6 - 10	191	25
	11 - 20	109	15
	21 - 30	24	3
	31 - 40	8	1
	41 - 50	8	1
	Over 50	28	4
	PART TIME . . . 1 - 10	527	70
	11 - 20	15	2
	21 - 30	4	.1
	Over 30	2	.1
	TOTAL NUMBER OF EMPLOYEES	10238	
	AVERAGE # OF EMPLOYEES PER PLANT	14	
PRODUCTS HANDLED:	BEEF	721	97
	PORK	716	96
	VEAL	282	38
	LAMB	425	57
	POULTRY	270	36
	CURED MEATS	602	81
DO YOU SLAUGHTER?	YES	519	70
	NO	225	30

P.O. BOX 269 ELIZABETHTOWN, PA 17022 (717) 367-1168

FACILITIES UNDER STATE SURVEILLANCE		TOTAL RETURNS: TOTAL	744 PERCENT
INSPECTION STATUS:	STATE INSPECTED	337	45
	RETAIL EXEMPT	47	6
	CUSTOM EXEMPT	59	8
NUMBER OF EMPLOYEES:	FULL TIME . . . 1 - 5	197	26
	6 - 10	107	14
	11 - 20	63	8
	21 - 30	12	2
	31 - 40	3	.1
	41 - 50	3	.1
	Over 50	5	1
	PART TIME . . . 1 - 10	292	40
	11 - 20	7	1
	21 - 30	2	.1
	Over 30		
	TOTAL NUMBER OF EMPLOYEES	4019	
	AVERAGE # OF EMPLOYEES PER PLANT	10	
PRODUCTS HANDLED:	BEEF	386	52
	PORK	384	51
	VEAL	140	18
	LAMB	221	29
	POULTRY	122	16
	CURED MEATS	318	43
DO YOU SLAUGHTER?	YES	296	40
	NO	95	13

FACILITIES UNDER FEDERAL SURVEILLANCE			
INSPECTION STATUS:	FEDERAL INSPECTED	236	32
	RETAIL EXEMPT	51	7
	CUSTOM EXEMPT	118	16
NUMBER OF EMPLOYEES:	FULL TIME . . . 1 - 5	170	23
	6 - 10	84	12
	11 - 20	46	6
	21 - 30	12	2
	31 - 40	5	
	41 - 50	5	
	Over 50	23	3
	PART TIME . . . 1 - 10	235	32
	11 - 20	9	1
	21 - 30	2	
	Over 30	2	
	TOTAL NUMBER OF EMPLOYEES	6219	
	AVERAGE # OF EMPLOYEES PER PLANT	18	
PRODUCTS HANDLED:	BEEF	335	45
	PORK	332	45
	VEAL	142	19
	LAMB	204	28
	POULTRY	148	20
	CURED MEATS	284	38
DO YOU SLAUGHTER?	YES	223	30
	NO	130	17

EXHIBIT B

PRESS HARD - YOU ARE MAKING 2 COPIES

U.S. DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
MEAT AND POULTRY INSPECTION PROGRAM

DAILY SANITATION REPORT

ESTABLISHMENT NAME	EST. NO.	DATE
S. Clyde Weaver	9793	07/02 THRU 07/31/79

INSTRUCTIONS: Prepare original and one copy signed by inspector and plant management. Inspector files original and gives copy to plant management.

Under the abbreviations "**Pre-Op.**" *(Observations made prior to the start of operations)* and "**Oper.**" *(Observations made after operations have begun)*, record as appropriate the following codes: "**N.O.**" *(Not Observed)*, "**Ac.**" *(Acceptable)*, "**Def.**" *(Deficiency (s))*.

GENERAL AREA	PRE-OP	OPER.	REMARKS (Enter "General Area" No., specific description of deficient areas, equipment, etc.)	ACTIONS TAKEN AND DOWNTIME (Enter "General Area" No.)
1. Ante-Mortem Areas		7/02	Acc.	
2. Outside Premises		07/03	Acc	
3. Floors		07/04	Hol. No Operation	
4. Walls		07/05	Acc	
5. Windows, Screens, etc.		07/06	Acc	
6. Ceilings and Overhead Structures				
7. Doors		7/9	Acc	
8. Rails and Shackles		7/10	Acc	
9. Equipment:		7/11	Acc	
a. Product Zone		7/12	Acc	
b. Nonproduct Zone		7/13	Acc	
10. Freezers and Coolers		7/16	Acc	
11. Ice Facilities		7/17	Acc	
12. Dry Storage Areas		7/18	Acc	
13. Lights		7/19	Acc	
14. Welfare Facilities				
15. Employee:		7/23	Acc	
a. Dress		7/24	Acc	
b. Hygiene				
c. Work Habits		7/25	- Clean Fan Kitchen	Dan N. Informed
16. Handwashing and Sanitizing		7/26	Acc	
17. Rodent and Insect Control		7/27	Acc	
18. General Housekeeping:		7/30	Acc	
a. Production Area		7/31	Acc	
b. Nonproduction Area				
19. Production Practices				
20. Other				

RECEIVED BY ESTABLISHMENT OFFICIAL (Signature)

INSPECTOR(S) SIGNATURE

PAGE NO. 1 of 1

MP FORM 455
FEB. 1974

PREVIOUS EDITIONS OBSOLETE.

EXHIBIT C

DAILY SANITATION REPORT	ESTABLISHMENT NAME: S. Clyde Weaver	EST. NO.: 9797	DATE: Nov 11/81

Under the abbreviations "Pre-Op." (Observations made prior to the start of operations) and "Oper." (Observations made after operations have begun), "Def." (Deficiency(s)).

GENERAL AREA	PRE-OP	OPER.	REMARKS (Enter "General Area" No. or write description of deficient areas, equipment, etc.)	ACTIONS TAKEN AND DOMITTED (Enter "General Area" No.)
1. Smokehouse		11-11	6 - Main Cooler Ceiling - Large Paint chips at Center Rib	To be cleaned by H-K DWM
2. Outside Premises	11-11		19 - Lunch Meat Piece not labeled. - Large Pc	DWM
3. Floors		11-11	All areas Acceptable	DWM
4. Walls	11-12		18a - Dirty table in slicing area Removed Not. Mine"	DWM
5. Windows, Screens, etc.		11-12	3 - Cooler Floor dirty - to be swept - to be cleaned	DWM
6. Ceilings and Overhead Structures	11-13		All areas Acceptable	DWM
7. Doors	11-16		18 c - Can opener not clean - Removed to be clean	DWM
8. Bakery		11-16	2 - Cooler Floor dirty at door - Mon pm	DWM
9. Equipment:		11-16	3 - Floor drain under sink - grease Scraps Mon	DWM
a. Product Zone	11-17		3 - Cooler Floor not cleaned - Mon Not. See above	DWM
b. Nonproduct Zone	11-17		19 - Smoked Sausage Not labeled - Tim Mon	DWM
		11-17	20 - Green tag ok in Boxing - working w/ Mr. Clover	DWM
10. Freezers and Coolers	11-18		18a Freddie not Registered Label NOT Done	DWM
11. Trucks		11-18	3 Cooler Floor work-down Scheduled for Nov 27	DWM
12. Dry Storage Areas			Bakery Floor Same day as following week.	DWM
13. Lights	11-19		20 - Bacon label to be ready for Sub-Mit 11-20	DWM
14. Welfare Facilities	11-19		20 Ham Loaf Cheese Waffahol for approval by 12-2	DWM
15. Employee:	11-19		19 - Inspection legend not obliterated	Tim notified DWM
a. Dress		11-19	6 - Fluorescent tube cover to be cleaned 11-20 or 12-8	DWM
b. Hygiene		11-19	2C - D.E.R. Water Sample #126074 NOT POLLUTED	DWM
c. Work Habits		11-19	15a - Board Schofield - Notified - Notified	DWM
16. Handwashing and Sanitizing			All Areas Acceptable	DWM
17. Rodent and Insect Control	11-20		18a - Cheese on slicer - Removed Tim Notified	DWM
	11-23		18a - Cooler Floor need spot cleaning - Done After Op.	DWM
18. General Housekeeping:		11-23	All areas Acceptable	DWM
a. Production Area	11-24		18a - Dirty Gloves left in kitchen area - Disposed	DWM
b. Nonproduction Area	11-25		18a - Knife above Bacon slicer dirty - to be cleaned Nov 27	DWM
19. Production Practices		11-25	18a Trimmer Tub left in Kitchen Area Notified Left on Counter	KD
	11-27		3 Cooler Floors UNSWEPT Mon	KD
20. Other		11-27	15a Clothes + Coats on Shelves Removed Tim Notified	KD
	11-30			

ESTABLISHMENT OFFICIAL (Signature)

Exhibit D

See instructions on the back of front cover

DATE	PI PAGE	CONTROL POINT	TEST OR INSPECTION E = EVALUATION V = VERIFICATION	E	V	COMMENTS AND ACTIONS TAKEN	INSPECTOR
7-6-82	5	V A,1,2	CHECK THAWING PRODUCT BOX PRIOR TO STORAGE & DEVELOPMENT		✓	THAWING PRODUCT STORED & MONITORED CORRECTLY — NO ENTRY BY Q.C.	HAL
7-7-82	1	I B,1,2		✓			HAL
	2	II B,1,2	STAFF IN THE CLOSET - AREAS OBSERVED CLEANING & SANITIZING DUTIES OF EMPLOYEES. COMPARE S.A.		✓	EMPLOYEES, CLEAN, "HAIR NETTED" CORRECTLY NO ENTRY ON S.A. BY Q.C.	HAL
	4	III C,1,3	NON-FOOD ITEMS CHECK FOR STORAGE AND PROPER STORAGE.		✓	FOUND ALL ITEMS STORED & IN GOOD SANITARY CONDITION NO ENTRYS BY Q.C.	HAL
	6	IV A,1,2,3			✓		HAL
	7	IX C,1	SANITATION REPORT - SLICER CHECK PRODUCT I.D. & BACON &		✓		HAL
	7	IX C,2,3	SLICER, CHECK PRODUCT FOR REQUIRED TEMP. COMPARE LOG BOOK		✓	BACON IN SLICED ROOM, HAS REACHED WITH PROPER I.D. UPON NOT. SANITIZE NOT COMPLETED LOG BOOK ENTRYS UP TO DATE. OBSERVED FORMATION OF PORK ROASTS, PRODUCT NOT COMPLETED FOR TEMP. CHECK. OVEN LOG BOOK &	HAL
	8	X B,1,2	PORK ROAST, CHECK FOR PROPER INTERNAL TEMP. LOG BOOK		✓		HAL
7-8-82	1	I B 1,2	REVIEW BACK SANITATION, COMPARE SANITATION REPORT		✓	PROPER SANITATION & RECORD BOOK	HAL
	2	II C,1,2	OBSERVE EQUIP. & PRODUCT BEING USED, CHECK COOL PRODUCT ALL TIMES, NON-MEAT INGREDIENTS		✓	ALL EQUIP. IN GOOD CONDITION & PRODUCT APPROPRIATELY KEPT. Q.C. RECORDS 20 & PRODUCT COOL.	HAL
	3	III B,1	FOR LETTERS OF GUARANTEE		✓	SEASONINGS USED HAVE APPROVED	HAL
	6	VII B,1	CHECK LABELING TO SEE IF USQA STANDARD.		✓	FOR LETTERS OF GUARANTEE. LABELING IS UP TO USQA STANDARD	HAL
	6	IX A,1,2,3	CHECK PACKAGED & SLICED PRODUCT FOR DATE, TIME, NON SANITATION		✓	PACKAGED & SLICED PRODUCT — LABELED PROPERLY. TIME TEMP CLEANS. SEE TIME TEMP LOG WAS BEING USED. Q.C. NOTIFIED AND CORRECTED.	HAL
7-9-82	1	I C,1,2	CHECK CHART USED RECORD EACH TEMP & BATH STATION		✓	CLEANS. USED & BOTH STATIONS ALL ACCEPTABLE.	HAL
	3	III A,1,2	INVOICES - MEAT PRODUCTS		✓	INVOICES REVIEWED IN ACCEPTABILITY TO PLANTS PRODUCT RECORDS	HAL
	5	V A,1,2	SANITATION REPORT - PRODUCT INGREDIENTS		✓	NO ENTRY BY Q.C.	HAL
	10	XI A,1	SANITATION REPORT - PRODUCT STAFF		✓	NO ENTRY BY Q.C.	HAL
	10	XII A,1B	SANITATION REPORT - NO		✓	NO ENTRY BY Q.C.	HAL
	10	XII A,1B,	SANITATION REPORT OBSERVE TALKS & SANITATION CONDITIONS FOR CONDITION		✓	TALKS & SANITATION CONDITIONS IN ACCEPTABLE CONDITION.	HAL
7-12-82	2	II A,1,2	EXAMINE HYGIENE PRACTICES OF PERSONAL PRODUCT		✓	PERSONAL HYGIENE IN ACCEPTABLE MANNER.	HAL
	2	II C,1,2	SANITATION REPORT, CONTAMINATION		✓	Q.C. RECORDS 20 OF PRODUCT COOL. NO OTHER ENTRYS BY Q.C.	HAL

AMERICAN ASSOCIATION OF MEAT PROCESSORS,
Elizabethtown, Pa., August 30, 1982.

Hon. JESSE A. HELMS,
Committee on Agriculture,
U.S. Senate, Washington, D.C.

DEAR SENATOR HELMS: We noted with interest the Agriculture Committee's scheduled hearings on S. 2348, legislation to allow less than continuous inspection of meat. Since the hearings were scheduled during the time of our annual convention, we were unable to attend. However, we would like to submit the enclosed statement for the record. If you have any questions about our position on this legislation, please do not hesitate to get in touch with us.

There is one point which needs clarification by the Department of Agriculture prior to further action on this or any similar legislation. As you know, the Federal Meat Inspection Act requires all states to maintain a meat inspection program under the auspices of the USDA. Those not conducting their own state meat inspection programs are designated by the USDA for Federal Meat Inspection. Currently, twenty-seven such state programs are still in existence and these programs are accepted as being equal to the Federal Meat Inspection Program.

We are concerned about the possible impact passage of S. 2348 might have on these state meat inspection programs. Will they be required to also set up, maintain and encourage meat plants to become involved in quality control programs? Will they endanger their equal to status if they attempt to cut down on inspection hours? Will states also be permitted leeway in determining the number of hours of inspection and the type inspection provided? Does the USDA plan to dictate that quality control programs must be implemented in most state inspected meat plants?

The American Association of Meat Processors strongly supports state meat inspection and would be hesitant to advocate any change which would create hardships or make it even more difficult for them to exist. Also, this matter is of grave concern to us since we represent primarily small meat plants and small meat plants are the ones which are inspected by the state meat inspection programs.

Thank you for giving us this opportunity to present our views on this important legislation.

Sincerely,

(Mrs.) A. JOAN DANNELLEY,
Project Coordinator.

[S. 2348, 97th Cong. 2d sess.]

A BILL To amend the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act to authorize the Secretary of Agriculture to determine the degree of inspection to be conducted in meat, poultry, and egg products processing plants, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Meat, Poultry, and Egg Products Inspection Amendments of 1982".

TITLE I—FEDERAL MEAT INSPECTION ACT AMENDMENTS

SEC. 101. Section 1(t) of the Federal Meat Inspection Act (21 U.S.C. 601(t)) is amended by inserting "or prepared in a USDA inspected establishment" after "inspected and passed".

SEC. 102. Section 6 of the Federal Meat Inspection Act (21 U.S.C. 606) is amended by striking out "That for the purposes hereinbefore set forth" and everything that follows down to the proviso and inserting in lieu thereof: "That for the purposes hereinbefore set forth, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment. Such examination and inspection shall be conducted in such manner and with such frequency as the Secretary deems necessary and in accordance with regulations promulgated under this Act, based on consideration of factors which shall include: (1) the nature and frequency of the establishment's processing operations; (2) the adequacy and reliability of an establishment's product monitoring system; (3) the establishment's history of compliance with inspection requirements; and (4) such other factors as the Secretary may deem appropriate. For the purpose of any examination and inspection, said inspectors shall have access at all times, by day or night, whether the establishment be operated or not, to every part of the establishment. All such products, except for products found to be adulterated, shall

be marked, stamped, tagged, or labeled as 'prepared in a USDA-inspected establishment'; all such products found to be adulterated shall be marked, stamped, tagged, or labeled as 'condemned' and all such condemned products shall be destroyed for human food purposes, as hereinbefore provided; and the Secretary may remove inspectors from any establishment which fails to so destroy such condemned meat food products:".

SEC. 103. Section 7(a) of the Federal Meat Inspection Act (21 U.S.C. 607(a)) is amended—

(1) by inserting "or 'prepared in a USDA-inspected establishment' " after " 'inspected and passed' "; and

(2) by inserting "or 'prepared in a USDA-inspected establishment' " after " 'inspected and passed' ".

SEC. 104. Section 7(b) of the Federal Meat Inspection Act (21 U.S.C. 607(b)) is amended by deleting "inspected at any establishment under the authority of this title and found to be not adulterated," and inserting in lieu thereof "inspected and passed or prepared in a USDA-inspected establishment".

SEC. 105. Section 8 of the Federal Meat Inspection Act (21 U.S.C. 608) is amended by striking out " 'inspected and passed.' " and inserting in lieu thereof " 'inspected and passed' or 'prepared in a USDA-inspected establishment' ".

SEC. 106. Section 21 of the Federal Meat Inspection Act (21 U.S.C. 621) is amended by deleting ", or meat food product therefrom,".

TITLE II—POULTRY PRODUCTS INSPECTION ACT AMENDMENTS

SEC. 201. Section 6 of the Poultry Products Inspection Act (21 U.S.C. 455) is amended by redesignating subsection (c) as subsection (d) and inserting a new subsection (c) as follows:

"(c) The Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of poultry products processed for commerce in each official establishment processing such poultry products. Such examination and inspection shall be conducted in such manner and with such frequency as the Secretary deems necessary and in accordance with regulations promulgated under this Act, based on consideration of factors which shall include: (1) the nature and frequency of the establishment's processing reliability monitoring system; (3) the establishment's history of compliance with inspection requirements; and (4) such other factors as the Secretary may deem appropriate.".

TITLE III—EGG PRODUCTS INSPECTION ACT AMENDMENTS

SEC. 301. Section 5(a) of the Egg Products Inspection Act (21 U.S.C. 1034(a)) is amended to read as follows:

"(a) For the purpose of preventing the entry into or flow or movement in commerce of or the burdening of commerce by, any egg product which is capable of use as human food and is misbranded or adulterated, the Secretary, whenever processing operations are being conducted, shall cause to be made, by inspectors appointed for that purpose, an inspection of the processing of egg products, in each plant processing eggs products for commerce, unless exempted under section 15 of this Act. With the exception of egg-breaking operations at official plants, which shall be subject to continuous inspection, such inspection shall be conducted in such manner and with such frequency as the Secretary deems necessary and in accordance with regulations promulgated under this Act, based on consideration factors which shall include: (1) the nature and frequency of the establishment's processing operations; (2) the adequacy and reliability of an establishment's product monitoring system; (3) the establishment's history of compliance with inspection requirements; and (4) such other factors as the Secretary may deem appropriate. Without restricting the application of the preceding two sentences to other kinds of establishments within their provisions, any food manufacturing establishment, institution, or restaurant which uses any eggs that do not meet the requirements of section 15(a)(1) of this Act in the preparation of any articles for human food shall be deemed to be a plant processing egg products, with respect to such operations.".

SEC. 302. Section 5(d) of the Egg Products Inspection Act (21 U.S.C. 1034(d)) is amended by deleting "at least once each calendar quarter" and inserting in lieu thereof "at least once each year".

TITLE IV—EFFECTIVE DATE

SEC. 401. The provisions of this Act shall become effective on enactment.

STAFF EXPLANATION OF S. 2348

The bill would amend the Federal meat, poultry, and egg products inspection Acts to provide flexibility to the Secretary of Agriculture in determining the degree of inspection to be conducted in processing plants. More specifically, it would make the following changes.

Title I would amend the Federal Meat Inspection Act in the following respects—

(1) The definition of the official inspection legend would be changed to include reference to products "prepared in a USDA inspected establishment". Under current law the official inspection legend refers only to products "inspected and passed".

(2) The current law requirement for examination and inspection of all meat food products prepared for commerce in specified establishments would be changed to authorize the Secretary to adjust the manner and frequency of such examination and inspection at any establishment as the Secretary finds necessary and in accordance with certain requirements specified in regulations. In connection with establishing the level of inspection, the regulations must provide for the Secretary to consider the following factors: (a) the nature and frequency of the establishment's processing operation; (b) the adequacy and reliability of the establishment's product monitoring system; and (c) the establishment's history of compliance with inspection requirements. The Secretary may consider other appropriate factors as well. [Note: The effect of this amendment would be limited to the examination and inspection of the preparation of meat food products only. The amendment would make no change in the current law requirements for inspection of slaughtering operations.]

(3) The current law requirement that all processed meat products inspected and found to be not adulterated must be marked "Inspected and passed" would be changed to require that such products be marked as "Prepared in a USDA inspected establishment" instead. Certain other technical conforming changes would also be made to make other provisions of the FMIA consistent with the new labeling requirement for processed meat products.

Title II would amend the Poultry Products Inspection Act to authorize the Secretary to adjust the manner and frequency of the examination and inspection conducted at establishments processing poultry products for commerce as the Secretary finds necessary and in accordance with certain requirements to be specified in regulations. The regulations must provide for the Secretary to take into consideration the same three factors described above in connection with the proposed amendment to the FMIA.

[Note: The amendment to the PPIA is functionally the same as the amendment to the FMIA; it likewise would make no change in the inspection requirements for slaughtering operations. The amendment to the PPIA does not change the statutory definition of the inspection legend or include the other conforming changes described for the FMIA, above, because of structural differences between these two statutes. Under the PPIA, all necessary conforming changes in labeling can be made in the regulations without amending the statute.]

Title III would amend the Egg Products Inspection Act in the following respects—

(1) The continuous inspection requirement is changed to authorize the Secretary to adjust the manner and frequency of inspection to be made of the processing of egg products as the Secretary finds necessary except in the case of egg breaking operations, which shall receive continuous inspection. In determining the level of inspection the Secretary is required to give consideration to certain requirements to be specified in the regulations. The regulations must provide for the Secretary to take into consideration the same three factors described above in connection with the proposed amendment to the FMIA. Current law requires that the Secretary provide continuous inspection whenever any egg products processing is conducted for commerce in any plant.

(2) The requirement that the Secretary conduct periodic inspections of the business premises, facilities, inventory, operations, and records of egg handlers is changed to provide for annual inspections in lieu of the current requirement for inspections on a quarterly basis.

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